The Commonwealth of Massachusetts

In the Year Two Thousand and Eleven

An Act establishing expanded gaming in the commonwealth.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for economic investments and job creation in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section 2A are hereby appropriated from the General Fund unless specifically designated otherwise, for the several purposes and subject to the conditions specified in this section, and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2012; provided, that notwithstanding any general or special law to the contrary, appropriations made herein shall not revert and shall be available for expenditure until June 30, 2013. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

SECTION 2A.

OFFICE OF THE GOVERNOR

0411-1004 To provide for certain costs associated with the implementation of expanded gaming in the commonwealth, including, but not limited to, costs related to legal, financial and other professional services required for the negotiation and execution of a compact with a federally recognized Indian tribe in the commonwealth to establish a tribal casino in region C……..……..$5,000,000

SECTION 3. Section 7 of chapter 4 of the General Laws is hereby amended by striking out clause Tenth, as appearing in the 2008 Official Edition, and inserting in place thereof the following clause:-

Tenth, "Illegal gaming," a banking or percentage game played with cards, dice, tiles or dominoes, or an electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the state lottery commission, under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) pari-mutuel wagering on horse races under chapters 128A and 128C and greyhound races under said chapter 128C; (iv) a game of bingo conducted under chapter 271; and (v) charitable gaming conducted under said chapter 271.

SECTION 4. Section 48 of chapter 6 of the General Laws is hereby repealed.

SECTION 5. Section 35 of chapter 10 of the General Laws, as appearing in the 2008 Official Edition, is amended by inserting after the word "Lottery", in lines 2 and 16, each time it appears, the following words:- "and Gaming.

SECTION 6. Section 39 of said chapter 10, as so appearing, is hereby amended by inserting after the word "Lottery", in lines 13 and 19, each time it appears, the following words:- and Gaming.

SECTION 7. Sections 64 and 65 of said chapter 10 are hereby repealed.

SECTION 8. Said chapter 10 is hereby further amended by inserting after section 72 the following section:-

Section 72A. The commissioner of the alcoholic beverages control commission shall establish a gaming liquor enforcement unit whose responsibilities shall include enforcing, regulating and controlling the distribution of alcoholic beverages in a gaming establishment.

The gaming liquor enforcement unit shall work in conjunction and cooperation with the investigations and enforcement bureau within the Massachusetts gaming commission established in chapter 23K. The commissioner shall assign investigators and employees of the unit to the bureau, who shall report to the director of the bureau and to the commissioner; provided, however, that the Massachusetts gaming commission shall designate the number of investigators and employees necessary to staff the unit. No investigator or employee of the unit, other than in the performance of official duties, shall place a wager in a gaming establishment licensed under chapter 23K. The commissioner shall establish a program to rotate investigators in and out of the unit. The alcoholic beverages control commission shall be reimbursed by the Massachusetts gaming commission for the costs of operating the unit; provided, however, that the Massachusetts gaming commission shall have final approval over the budget of the unit.

SECTION 9. Chapter 12 of the General Laws is hereby amended by inserting after section 11L the following section:-

Section 11M. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Commission", the Massachusetts gaming commission established in chapter 23K.

"Division", the division of gaming enforcement established in subsection (b).

"Gaming establishment", as defined in section 1 of chapter 23K.

(b) There shall be in the department of the attorney general a division of gaming enforcement. The attorney general shall designate an assistant attorney general as the director of gaming enforcement. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical or other assistants as the work of the division may require.

(c) The division shall enforce criminal violations of chapter 23K which shall include, but not be limited to: (1) investigating and prosecuting allegations of criminal activity related to or impacting the operation of gaming establishments or games; (2) receiving and taking appropriate action on referrals for criminal prosecution from the commission or any other law enforcement body; (3) providing assistance, upon request, to the commission in the consideration and promulgation of rules and regulations; (4) ensuring that there shall be no duplication of duties and responsibilities between the division and the commission; and (5) recommending persons to be placed on a list of excluded persons to be maintained by the commission.

No employee of the division and no person engaged by the division in the course of an investigation, other than in the performance of their official duties, shall place a wager in a gaming establishment licensed under chapter 23K during the period of their employment or assignment with the division. The attorney general shall establish a code of ethics for all division employees which shall be more restrictive than chapters 268A and 268B. A copy of the code of ethics shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out this section including, but not limited to: (i) prohibiting the

receipt of gifts by a division employee from a gaming licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission established by chapter 23K; and (ii) prohibiting the participation by a division employee in a particular matter as defined in section 1 of said chapter 268A that affects the financial interest of a relative within the third degree of consanguinity or any other person with whom such employee has a significant relationship as defined in the code.

Officers and employees of the gaming enforcement unit in the department state police who are assigned to the division shall record their time and submit their total hours to the director of gaming enforcement. The division shall submit a request for reimbursement to the commission and the commission shall reimburse the department of state police.

SECTION 10. Chapter 12B of the General Laws is hereby repealed.

SECTION 11. Subsection (b) of section 9 of chapter 13 of the General Laws is hereby amended by striking out the words ", as well as the state racing commission established by section 48 of chapter 6," inserted by section 29 of chapter 4 of the acts of 2009.

SECTION 12. Subsection (e) of section 9B of said chapter 13 is hereby amended by striking out the words ", as well as the state racing commission established by section 48 of chapter 6," , inserted by section 30 of said chapter 4.

SECTION 13. Said subsection (e) of said section 9B of said chapter 13 is hereby further amended by striking out the words "or regulated by the state racing commission, as established by section 48 of chapter 6" , inserted by section 31 of said chapter 4.

SECTION 14. Section 38 of chapter 22C of the General Laws is hereby amended by inserting after the word “involving”, in lines 36 and 37, as appearing in the 2008 Official Edition, the following word:- illegal.

SECTION 15. Said chapter 22C is hereby further amended by adding the following section:-

Section 70. The colonel of state police shall establish a gaming enforcement unit the responsibilities of which shall include, but not be limited to, the investigation of criminal violations of chapter 23K or any other general or special law pertaining to gaming.

The gaming enforcement unit shall work in conjunction and cooperation with the investigations and enforcement bureau within the Massachusetts gaming commission to enforce chapter 23K and with the division of gaming enforcement within the office of the attorney general to investigate criminal activity related to gaming. Officers and employees of the unit shall be assigned to the investigations and enforcement bureau and shall report to the deputy director of investigations and enforcement and to the colonel of state police. The colonel shall also assign officers of the unit to the division of gaming enforcement, who shall report to the chief of gaming enforcement and to the colonel of state police. No officer of the unit, other than in the performance of official duties, shall place a wager in a gaming establishment licensed under chapter 23K. The colonel shall establish a program to rotate officers in and out of the unit.

SECTION 16. The General Laws are hereby amended by inserting after chapter 23J the following chapter:-

CHAPTER 23K.

THE MASSACHUSETTS GAMING COMMISSION

Section 1. The General Court finds and declares that:

(1) ensuring public confidence in the integrity of the gaming licensing process and in the strict oversight of all gaming establishments through a rigorous regulatory scheme is the paramount policy objective of this chapter;

(2) establishing the financial stability and integrity of gaming licensees, as well as the integrity of their sources of financing, is an integral and essential element of the regulation and control of gaming under this chapter;

(3) gaming licensees shall be held to the highest standards of licensing and shall have a continuing duty to maintain their integrity and financial stability;

(4) enhancing and supporting the performance of the state lottery and continuing the commonwealth's dedication to local aid is imperative to the policy objectives of this chapter;

(5) the commonwealth must provide for new employment opportunities in all sectors of the economy, particularly opportunities for the unemployed, and shall preserve jobs in existing industries in the commonwealth; this chapter sets forth a robust licensing process where applicants for a gaming license shall submit a comprehensive plan for operating a gaming establishment which includes how they will foster and encourage new construction through capital investment and provide permanent employment opportunities to residents of the commonwealth;

(6) promoting local small businesses and the tourism industry, including the development of new and existing small business and tourism amenities such as lodging, dining, retail and cultural and social facilities, is fundamental to the policy objectives of this chapter;

(7) recognizing the importance of the commonwealth's unique cultural and social resources and integrating them into new development opportunities shall be a key component of a decision to the award of any gaming license under this chapter;

(8) applicants for gaming licenses and gaming licensees shall demonstrate their commitment to efforts to combat compulsive gambling and a dedication to community mitigation, and shall recognize that the privilege of licensure bears a responsibility to identify, address and minimize any potential negative consequences of their business operations;

(9) any license awarded by the commission shall be a revocable privilege and may be conditioned, suspended or revoked upon: (i) a breach of the conditions of licensure, including failure to complete any phase of construction of the gaming establishment or any promises made to the commonwealth in return for receiving a gaming license; (ii) any civil or criminal violations of the laws of the commonwealth or other jurisdictions; or (iii) a finding by the commission that a gaming licensee is unsuitable to operate a gaming establishment or perform the duties of their licensed position; and

(10) the power and authority granted to the commission shall be construed as broadly as necessary for the implementation, administration and enforcement of this chapter.

Section 2. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Affiliate", a person who directly or indirectly controls, or is controlled by, or is under common control with, a specified person.

"Applicant", a person who has applied for a license to engage in activity regulated under this chapter.

"Application", a written request for a finding of suitability to receive a license or engage in an activity which is regulated under this chapter.

"Bureau", the investigations and enforcement bureau under the commission.

"Business", a corporation, sole proprietorship, partnership, limited liability company or any other organization formed for the purpose of carrying on a commercial enterprise.

"Category 1 license", a license issued by the commission that permits the licensee to operate a gaming establishment with table games and slot machines.

"Category 2 license", a license issued by the commission that permits the licensee to operate a gaming establishment with no table games and not more than 1,250 slot machines.

"Capital expenditure", money spent by a gaming licensee to upgrade or maintain depreciable and tangible long-term physical assets that are capitalized on the gaming licensee's books under generally accepted accounting principles and excluding expenditures or charges for the usual and customary maintenance and repair of any fixed asset.

"Cashless wagering system", a method of wagering and accounting in which the validity and value of a wagering account, promotional account, wagering instrument or wagering credits, not including slot machine printed vouchers, are determined, monitored and retained for an individual by an electronic system operated and maintained by a gaming licensee which maintains a record of each transaction involving the wagering account, promotional account, wagering instrument or wagering credits, exclusive of the game or gaming device on which

wagers are being made, including electronic systems which facilitate electronic transfers of money directly to or from a game or gaming device.

"Chair", the chair of the commission.

"Cheat", to alter the selection of criteria which determines the results of a game or the amount or frequency of payment in a game.

"Cheating and swindling device" or "cheating and swindling game", (i) a coin, token or slug other than a lawful coin or legal tender of the United States or a coin not of the same denomination as the coin intended to be used by the gaming establishment while playing or using a slot machine in a gaming establishment, except that a "cheating and swindling device" shall not include a token or similar object which is approved by the commission; (ii) a bogus or counterfeit chip, coin or die; a marked card; a computerized, electronic, electrical, mechanical or magnetic device; tool, drill, wire, key or other device designed, constructed or programmed specifically for: (A) use in obtaining an advantage in a game; (B) opening, entering or affecting the operation of a gaming device; or (C) removing from a slot machine, other gaming device or drop box any money or other contents; (iii) a tool, drill, wire, coin or token attached to a string or wire, or an electronic or magnetic device to facilitate the alignment of a winning combination; or (iv) a gaming device that has been manufactured, serviced, marked, plugged or tampered with, or placed in a condition or operated in a manner to: (1) deceive, or attempt to deceive, the public; or (2) alter, or attempt to alter, the normal random selection of characteristics, the normal chance of the game or the result of the game at a gaming establishment.

"Close associate", a person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able

to exercise a significant influence over the management or operation of a gaming establishment or business licensed under this chapter.

“Commission”, the Massachusetts gaming commission established in section 3.

“Commissioner”, a member of the commission.

"Complimentary service or item", a service or item provided at no cost or at a reduced cost to a patron of a gaming establishment.

“Conservator”, a person appointed by the commission to temporarily manage the operation of a gaming establishment.

“Credit card”, a card, code or other device with which a person may defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor, but not a card, code or other device used to activate a preexisting agreement between a person and a financial institution to extend credit when the person’s account at the financial institution is overdrawn or to maintain a specified minimum balance in the person’s account at the financial institution.

“Credit instrument”, a writing which evidences a gaming debt owed to a person who holds a gaming license at the time the debt is created, including any writing taken in consolidation, redemption or payment of a previous credit instrument.

“Division”, the division of gaming enforcement in the office of the attorney general.

“Executive director”, the executive director of the Massachusetts gaming commission.

“Gambling”, the playing of a game by a patron of a gaming establishment.

“Game”, a banking or percentage game played with cards, dice, tiles, dominoes or an electronic, electrical or mechanical device or machine played for money, property, checks, credit or any other representative of value which has been approved by the commission.

“Gaming”, dealing, operating, carrying on, conducting, maintaining or exposing any game for pay.

“Gaming area”, the portion of the premises of a gaming establishment in which or on which gaming is conducted.

“Gaming device” or “gaming equipment”, an electronic, electrical or mechanical contrivance or machine used in connection with gaming or a game.

“Gaming employee”, an employee of a gaming establishment who: (i) is directly connected to the operation or maintenance of a slot machine or game taking place in a gaming establishment; (ii) provides security in a gaming establishment; (iii) has access to a restricted area of a gaming establishment; (iv) is connected with the operation of a gaming establishment; or (v) is so designated by the commission.

“Gaming establishment”, the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities.

“Gaming license”, a license issued by the commission that permits the licensee to operate a gaming establishment.

“Gaming licensee”, a person or entity who holds a gaming license under this chapter.

“Gaming position”, a designated seat or standing position where a patron of a gaming establishment can play a game.

“Gaming service employee”, an employee of a gaming establishment who is not classified as a gaming employee or a key gaming employee, but is required to register with the commission.

“Gaming vendor”, a person who offers goods or services to a gaming applicant or gaming licensee on a regular or continuing basis which directly relates to gaming, including, but not limited to, gaming equipment and simulcast wagering equipment manufacturers, suppliers, repairers and independent testing laboratories.

“Gaming vendor license”, a license issued by the commission that permits the licensee to act as a vendor to a gaming establishment.

“Gross revenue” or “gross gaming revenue”, the total of all sums actually received by a gaming licensee from gaming operations less the total of all sums paid out as winnings to patrons; provided, however, that the total of all sums paid out as winning to patrons shall not include the cash equivalent value of any merchandise or thing of value included in a jackpot or payout; and provided further, that “Gross revenue” shall not include any amount received by a gaming licensee from simulcast wagering or from credit extended or collected by the gaming licensee for purposes other than gaming.

“Holding company”, a corporation, association, firm, partnership, trust or other form of business organization, other than a natural person, which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation or other form of business organization which holds or applies for a gaming license; provided, however, that “holding company”, in addition to any other reasonable use of

the term, shall indirectly have, hold or own any such power, right or security if it does so through an interest in a subsidiary or any successive subsidiaries, notwithstanding how many such subsidiaries may intervene between the holding company and the gaming licensee or applicant.

"Host community", a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.

"Impacted live entertainment venue", a not-for-profit or municipally-owned performance venue designed in whole or in part for the presentation of live concerts, comedy or theatrical performances, which the commission determines experiences, or is likely to experience, a negative impact from the development or operation of a gaming establishment.

"Institutional investor", any of the following entities having a 5 per cent or greater ownership interest in a gaming establishment or gaming licensee: a corporation, bank, insurance company, pension fund or pension fund trust, retirement fund, including funds administered by a public agency, employees' profit-sharing fund or employees' profit-sharing trust, an association engaged, as a substantial part of its business or operation, in purchasing or holding securities, or any trust in respect of which a bank is a trustee or co-trustee, investment company registered under the federal Investment Company Act of 1940, collective investment trust organized by banks under part 9 of the Rules of the Comptroller of Currency, closed end investment trust, chartered or licensed life insurance company or property and casualty insurance company, investment advisor registered under the federal Investment Advisers Act of 1940, and such other persons as the commission may reasonably determine to qualify as an institutional investor for reasons consistent with this chapter.

“Intermediary company”, a corporation, association, firm, partnership, trust or other form of business organization other than a natural person which is a holding company with respect to a corporation or other form of business organization which holds or applies for a gaming license, and is a subsidiary with respect to a holding company.

“Junket”, an arrangement intended to induce a person to come to a gaming establishment to gamble, where the person is selected or approved for participation on the basis of the person’s ability to satisfy a financial qualification obligation related to the person’s ability or willingness to gamble or on any other basis related to the person’s propensity to gamble, and pursuant to which, and as consideration for which, any of the cost of transportation, food, lodging, and entertainment for the person is directly or indirectly paid by a gaming licensee or an affiliate of the gaming licensee.

“Junket enterprise”, a person, other than an applicant for a gaming license or gaming licensee, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed gaming establishment, regardless of whether or not those activities occur within the commonwealth.

“Junket representative”, a person who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, a junket to a gaming establishment, regardless of whether or not those activities occur within the commonwealth.

“Key gaming employee”, an employee of a gaming establishment who is: (i) in a supervisory capacity; (ii) empowered to make discretionary decisions which regulate gaming establishment operations; or (iii) so designated by the commission.

“License”, a license required under this chapter.

“List of excluded persons”, the list of excluded persons maintained by the commission under section 45.

“Lottery”, the Massachusetts state lottery established in section 24 of chapter 10.

“Major policy making position”, the executive or administrative head or heads of the commission and any person whose salary equals or exceeds that of a state employee classified in step 1 of job group XXV of the general salary schedule contained in section 46 of chapter 30 and who reports directly to the commission or the administrative head of any bureau or other major administrative unit within the commission and persons exercising similar authority.

“Non-gaming vendor”, a supplier or vendor including, but not limited to, a construction company, vending machine provider, linen supplier, garbage handler, maintenance company, limousine services company, food purveyor or supplier of alcoholic beverages, which provides goods or services to a gaming establishment or gaming licensee, but which is not directly related to games.

“Operation certificate”, a certificate of compliance issued by the commission to the operator of a gaming establishment.

“Person”, an individual, corporation, association, operation, firm, partnership, trust or other form of business association.

“Promotional gaming credit”, a slot machine or table game credit or other item issued by a gaming licensee to a patron to enable the placement of a wager at a slot machine or table game.

“Qualification” or “qualified”, the process of licensure set forth by the commission to determine that all persons who have a professional interest in a gaming license, or gaming vendor license,

or the business of a gaming licensee or gaming vendor, meet the same standards of suitability to operate or conduct business with a gaming establishment in the commonwealth.

"Slot machine", a mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the individual playing or operating the machine to receive cash, or tokens to be exchanged for cash, or to receive merchandise or anything of value, whether the payoff is made automatically from the machine or in any other manner, except that the cash equivalent value of any merchandise or other thing of value shall not be included in determining the payout percentage of a slot machine.

"State police", the department of state police established in chapter 22C.

"Subsidiary", a corporation, a significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company, or a significant interest in a firm, association, partnership, trust or other form of business organization, other than a natural person, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

"Surrounding communities", municipalities in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.

"Table game", a game, other than a slot machine, which is authorized by the commission to be played in a gaming establishment.

"Transfer", the sale or other method, either directly or indirectly, of disposing of or parting with property or with an interest therein, or with the possession thereof, or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise; provided, however, that the retention of a security interest in property delivered to a corporation shall be deemed a transfer suffered by such corporation.

"Wager", a sum of money or representative of value that is risked on an occurrence for which the outcome is uncertain.

Section 3. (a) There shall be a Massachusetts gaming commission which shall consist of 5 commissioners, 1 of whom shall be appointed by the governor; 1 of whom shall be appointed by the attorney general who shall have experience in criminal investigations and law enforcement; 1 of whom shall be appointed by the treasurer and receiver general who shall have experience in corporate finance and securities; and 2 of whom shall be appointed by the approval of 2 of the 3 appointing authorities, 1 of whom shall have experience in legal and policy issues related to gaming and 1 of whom may have professional experience in gaming regulatory administration or gaming industry management. The governor shall designate the chair of the commission. The chair shall serve in that capacity throughout the term of appointment and until a successor shall be appointed. Prior to appointment to the commission, a background investigation shall be conducted into the financial stability, integrity and responsibility of a candidate, including the

candidate's reputation for good character, honesty and integrity. No person who has been convicted of a felony shall be eligible to serve on the commission.

(b) Each commissioner shall be a resident of the commonwealth within 90 days of appointment and, while serving on the commission, shall not: (i) hold, or be a candidate for, federal, state or local elected office; (ii) hold an appointed office in a federal, state, or local government; or (iii) serve as an official in a political party. Not more than 3 commissioners shall be from the same political party.

(c) Each commissioner shall serve for a term of 5 years or until a successor is appointed and shall be eligible for reappointment; provided, however, that no commissioner shall serve more than 10 years. A person appointed to fill a vacancy in the office of a commissioner shall be appointed in a like manner and shall serve for only the unexpired term of such commissioner. The governor may remove a commissioner if the commissioner: (i) is guilty of malfeasance in office; (ii) substantially neglects the duties of a commissioner; (iii) is unable to discharge the powers and duties of the commissioner's office; (iv) commits gross misconduct; or (v) is convicted of a felony.

(d) Three commissioners shall constitute a quorum and the affirmative vote of 3 commissioners shall be required for an action of the commission. The chair or 3 members of the commission may call a meeting; provided, however, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. The commission shall adopt regulations establishing procedures, which may include electronic communications, by which a request to receive notice shall be made and the method by which timely notice may be given.

(e) Commissioners shall receive salaries not greater than three-quarters of the salary of the commissioner of administration under section 4 of chapter 7; provided, however, that the chair shall receive a salary equal to the salary of the commissioner of administration. Commissioners shall devote their full time and attention to the duties of their office.

(f) The commission shall annually elect 1 of its members to serve as secretary and 1 of its members to serve as treasurer. The secretary shall keep a record of the proceedings of the commission and shall be the custodian and keeper of the records of all books, documents and papers filed by the commission and of its minute book. The secretary shall cause copies to be made of all minutes and other records and documents of the commission and shall certify that such copies are true copies, and all persons dealing with the commission may rely upon such certification.

(g) The chair shall have and exercise supervision and control over all the affairs of the commission. The chair shall preside at all hearings at which the chair is present and shall designate a commissioner to act as chair in the chair's absence. To promote efficiency in administration, the chair shall, from time to time, make such division or re-division of the work of the commission among the commissioners as the chair deems expedient.

(h) All of the commissioners shall, if so directed by the chair, participate in the hearing and decision of any matter before the commission; provided, however, that at least 2 commissioners shall participate in the hearing and decision of matters other than those of formal or administrative character coming before the commission; provided further, that any such matter may be heard, examined and investigated by an employee of the commission designated and assigned by the chair, with the concurrence of 1 other commissioner. Such employee shall make

a report in writing relative to the hearing, examining and investigating of every such matter to the commission for its decision. For the purposes of hearing, examining and investigating any such matter, such employee shall have all of the powers conferred upon a commissioner by this section. For each hearing, the concurrence of a majority of the commissioners participating in the decision shall be necessary.

(i) The commission shall appoint an executive director. The executive director shall serve at the pleasure of the commission, shall receive such salary as may be determined by the commission, and shall devote full time and attention to the duties of the office. The executive director shall be a person with skill and experience in management and shall be the executive and administrative head of the commission and shall be responsible for administering and enforcing the provisions of law relative to the commission and to each administrative unit thereof. The executive director shall appoint and employ a chief financial and accounting officer and may, subject to the approval of the commission, employ other employees, consultants, agents, and advisors, including legal counsel, and shall attend meetings of the commission. The chief financial and accounting officer of the commission shall be in charge of its funds, books of account and accounting records. No funds shall be transferred by the commission without the approval of the commission and the signatures of the chief financial and accounting officer and the treasurer. In the case of an absence or vacancy in the office of the executive director, or in the case of disability as determined by the commission, the commission may designate an acting executive director to serve as executive director until the vacancy is filled or the absence or disability ceases. The acting executive director shall have all the powers and duties of the executive director and shall have similar qualifications as the executive director.

(j) The chair may, from time to time and subject to the approval of the commission, establish within the commission such administrative units as may be necessary for the efficient and economical administration of the commission and, when necessary for such purpose, may abolish any such administrative unit or may merge any 2 or more units. The chair shall prepare and keep current a plan of organization of the commission, of the assignment of its functions to its various administrative units, offices and employees and of the places at which and the methods by which the public may receive information or make requests. A current copy of the plan of organization shall be kept on file with the state secretary and in the office of the secretary of administration and finance.

(k) The chair may appoint such persons as the chair shall considers necessary to perform the functions of the commission; provided, however, that chapter 31 and section 9A of chapter 30 shall not apply to commission employees. If an employee serving in a position which is classified under said chapter 31 or in which an employee has tenure by reason of said section 9A of said chapter 30 shall be appointed to a position within the commission which is not subject to said chapter 31, the employee shall, upon termination of service in such position, be restored to the position which the employee held immediately prior to such appointment; provided, however, that the employee's service in such position shall be determined by the civil service commission in accordance with the standards applied by the commission in administering said chapter 31. Such restoration shall be made without impairment of the employee's civil service status or tenure under said section 9A of said chapter 30 and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled such employee. During the period of such appointment, each person so appointed from a position in

the classified civil service shall be eligible to take any competitive promotional examination for which such person would otherwise have been eligible.

(l) The commission may require a prospective employee to: (i) submit an application and a personal disclosure on a form prescribed by the commission which shall include a complete criminal history, including convictions and current charges for all felonies and misdemeanors; (ii) undergo testing which detects the presence of illegal substances in the body; or (iii) provide fingerprints and a photograph consistent with standards adopted by the state police. The commission shall verify the identification, employment and education of each prospective employee, including: (i) legal name, including any alias; (ii) all secondary and post secondary educational institutions attended regardless of graduation status; (iii) place of residence; and (iv) employment history.

The commission shall not hire a prospective employee if the prospective employee has: (i) been convicted of a felony or a misdemeanor that, in the discretion of the commission, bears a close relationship to the duties and responsibilities of the position for which employment is sought; (ii) been dismissed from prior employment for gross misconduct or incompetence; or (iii) intentionally made a false statement concerning a material fact in connection with the prospective employee's application to the commission. If an employee of the commission is charged with a felony or misdemeanor while employed by the commission, the commission shall suspend the employee, with or without pay, and terminate employment with the commission upon conviction.

(m) Chapters 268A and 268B shall apply to the commissioners and to employees of the commission; provided, however, that the commission shall establish a code of ethics for all

members and employees that shall be more restrictive than said chapters 268A and 268B. A copy of the code shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out the purposes of this chapter and any other laws subject to the jurisdiction of the commission including, but not limited to: (i) prohibiting the receipt of gifts by commissioners and employees from any gaming licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission; (ii) prohibiting the participation by commissioners and employees in a particular matter as defined in section 1 of said chapter 268A that affects the financial interest of a relative within the third degree of consanguinity or a person with whom such commissioner or employee has a significant relationship as defined in the code; and (iii) providing for recusal of a commissioner in a licensing decision due to a potential conflict of interest.

(n) Immediately upon assuming office, each commissioner and employee of the commission, except for secretarial and clerical personnel, shall swear or affirm that the commissioner or employee possesses no interest in a person licensed under this chapter. No individual shall be employed by the commission if, during the period commencing 3 years prior to employment, that individual held any direct or indirect interest in, or was employed by, a licensee under this chapter.

(o) No employee of the commission shall pursue any other business or occupation or other gainful employment outside of the commission without the prior written approval of the commission that such employment shall not interfere or be in conflict with the employee's duties to the commission.

(p) No commissioner shall hold a direct or indirect interest in, or be employed by, an applicant or by a person licensed by the commission for a period of 3 years after the termination of employment with the commission.

(q) No employee of the commission holding a major policy making position shall acquire an interest in, or accept employment with, an applicant or licensee for a period of 2 years after the termination of employment with the commission.

(r) No employee of the commission in a non-major policy making position shall acquire an interest in, or accept employment with, an applicant or licensee under this chapter for a period of 1 year after termination of employment with the commission.

(s) Any commission employee assigned to a gaming establishment shall be considered an essential state employee.

(t) No commissioner or employee, other than in the performance of the commissioner's or employee's official duties, shall place a wager in a gaming establishment.

(u) The commissioners and those employees holding major policy-making positions shall be sworn to the faithful performance of their official duties. The commissioners and those employees holding major policy-making positions shall conduct themselves in a manner so as to render decisions that are fair and impartial and in the public interest; avoid impropriety and the appearance of impropriety in all matters under their jurisdiction; avoid all prohibited communications; require staff and personnel subject to their direction and control to observe the same standards of fidelity and diligence; disqualify themselves from proceedings in which their impartiality might reasonably be questioned; and refrain from financial or business dealings which would tend to reflect adversely on impartiality.

(v) The commissioners and employees shall not own, or be in the employ of, or own any stock in, a business which holds a license under this chapter, nor shall they have, directly or indirectly, a pecuniary interest in, or be connected with, any such business or in the employ or connected with any person financing any such business; provided further, that immediate family members of commissioners and employees holding major policy making positions shall not own, or be in the employ of, or own stock in, any business which holds a license under this chapter. The commissioners and employees shall not personally, or through a partner or agent, render professional services or make or perform any business contract with or for any regulated entity, except contracts made with the commissioners for the furnishing of services, nor shall the commissioners or employees directly or indirectly receive any commission, bonus, discount, gift or reward from a regulated entity.

(w) Neither the commission nor any of its officers, agents, employees, consultants or advisors shall be subject to sections 9A, 45, 46 and 52 of chapter 30, chapter 31, or to chapter 200 of the acts of 1976.

(x) The Massachusetts gaming commission shall be a commission for the purposes of section 3 of chapter 12.

Section 4. The commission shall have all powers necessary or convenient to carry out and effectuate its purposes including, but not limited to, the power to:

(1) appoint officers and hire employees;

(2) establish, and from time to time amend, a plan of organization that it considers expedient;

(3) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;

(4) enter into agreements or other transactions with a person, including, but not limited to, a public entity or other governmental instrumentality or authority in connection with its powers and duties under this chapter;

(5) appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(6) apply for and accept subventions, grants, loans, advances and contributions of money, property, labor or other things of value from any source, to be held, used and applied for its purposes;

(7) provide and pay for advisory services and technical assistance as may be necessary in its judgment to carry out this chapter and fix the compensation of persons providing such services or assistance;

(8) prepare, publish and distribute, with or without charge as the commission may determine, such studies, reports and bulletins and other material as the commission considers appropriate;

(9) assure that licenses shall not be issued to, or held by, and that there shall be no material involvement directly or indirectly with, a gaming operation or the ownership thereof, by unqualified, disqualified or unsuitable persons or by persons whose operations are conducted in a manner not conforming with this chapter;

(10) require an applicant for a position which requires a license under this chapter to apply for such license and approve or disapprove any such application or other transactions, events and processes as provided in this chapter;

(11) require a person who has a business association of any kind with a gaming licensee or applicant to be qualified for licensure under this chapter;

(12) develop criteria, in addition to those outlined in this chapter, to assess which applications for gaming licenses will provide the highest and best value to the commonwealth and the region in which a gaming establishment is to be located;

(13) determine which applicants shall be awarded gaming licenses, gaming vendor licenses and other licenses in accordance with this chapter;

(14) determine a suitable debt-to-equity ratio for applicants for a gaming license;

(15) deny an application or limit, condition, restrict, revoke or suspend a license, registration, finding of suitability or approval, or fine a person licensed, registered, found suitable or approved for any cause the commission deems reasonable;

(16) monitor the conduct of licensees and other persons having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring that licenses are not issued to or held by and that there is no direct or indirect material involvement with a licensee, by an unqualified or unsuitable person or by a person whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places as provided in this chapter;

(17) gather facts and information applicable to the commission's obligation to issue, suspend or revoke licenses, work permits or registrations granted for: (i) a violation of this chapter or any regulation adopted by the commission; (ii) willfully violating an order of the commission directed to such person; (iii) the conviction of a criminal offense; or (iv) the violation of any other offense which would disqualify such person from holding a license, work permit or registration;

(18) conduct investigations into the qualifications of all applicants for employment by the commission and by any regulated entity and all applicants for licensure;

(19) request and receive from the state police, the criminal history systems board or other criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation and the Internal Revenue Service, such criminal offender record information relating to criminal and background investigations as necessary for the purpose of evaluating employees of, and applicants for employment by, the commission and any regulated entity, and evaluating licensees and applicants for licensure under this chapter;

(20) be present, through its inspectors and agents, at all times, in gaming establishments for the purposes of: (i) certifying revenue; (ii) receiving complaints from the public relating to the conduct of gaming and wagering operations; (iii) examining records of revenues and procedures and inspecting and auditing all books, documents and records of licensees; (iv) conducting periodic reviews of operations and facilities for the purpose of regulations adopted thereunder; and (v) exercising its oversight responsibilities with respect to gaming;

(21) inspect and have access to all equipment and supplies in a gaming establishment or on premises where gaming equipment is manufactured, sold or distributed;

(22) seize and remove from the premises of a gaming licensee and impound any equipment, supplies, documents and records for the purpose of examination and inspection;

(23) demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a gaming licensee or gaming vendor whom the commission suspects is involved in the financing, operation or management of the gaming licensee or gaming vendor; provided, however, that the inspection, examination, photocopying and audit may take place on the affiliate's premises or elsewhere as practicable, and in the presence of the affiliate or its agent;

(24) require that the books and financial or other records or statements of a gaming licensee or gaming vendor be kept in a manner that the commission considers proper;

(25) levy and collect assessments, fees and fines and impose penalties and sanctions for the violation of this chapter and the regulations promulgated by the commission;

(26) collect taxes and fees under this chapter;

(27) restrict, suspend or revoke licenses issued under this chapter;

(28) conduct adjudicatory proceedings and promulgate regulations in accordance with chapter 30A;

(29) hear appeals of the bureau's suspension or revocation of a license;

(30) refer cases for criminal prosecution to the appropriate federal, state or local authorities;

(31) issue subpoenas and compel the attendance of witnesses at any place within the commonwealth, administer oaths and require testimony under oath before the commission in the course of an investigation or hearing conducted under this chapter;

(32) ensure that there is no duplication of duties and responsibilities between the commission and bureau; provided, however, that the commission shall not place any restriction upon the bureau's ability to investigate or prosecute violations of this chapter or the regulations adopted by the commission;

(33) determine which municipalities are the surrounding communities of a proposed gaming establishment; provided, however, that in making such determination, the commission shall consider factors including, but not limited to, population, infrastructure, distance from the gaming establishment and political boundaries;

(34) establish parameters for elections under clause (13) of section 15;

(35) maintain an official internet website for the commission;

(36) monitor any federal activity regarding internet gaming and coordinate with the office of treasurer and receiver general on implementing any measures necessary to protect the commonwealth's lottery and gaming interests;

(37) adopt, amend or repeal regulations for the administration and enforcement of this chapter;

(38) act as trustees for any gaming-related trust funds;

(39) designate impacted live entertainment venues; provided, however, that, in making such designations, the commission shall consider factors including, but not limited to, the venue's distance from the gaming establishment, venue capacity and the type of performances offered by that venue;

(40) provide assistance to the governor in negotiating a compact with a federally-recognized Indian tribe in the commonwealth; and

(41) regulate and enforce the provisions of section 7A of chapter 271 relating to bazaars; provided, however, that nothing in this section shall limit the attorney general's authority over public charities pursuant to the general laws.

Section 5. (a) The commission shall promulgate regulations for the implementation, administration and enforcement of this chapter including, without limitation, regulations that:

(1) prescribe the method and form of application which any applicant for licensure shall follow and complete before consideration by the commission;

(2) prescribe the information to be furnished by an applicant or licensee concerning an applicant or licensee's antecedents, habits, character, associates, criminal record, business activities and financial affairs, past or present;

(3) prescribe the criteria for evaluation of the application for a gaming license including, with regard to the proposed gaming establishment, an evaluation of architectural design and concept excellence, integration of the establishment into its surroundings, tourism appeal, level of capital investment committed, financial strength of the applicant and the applicant's financial plan;

(4) prescribe the information to be furnished by a gaming licensee relating to the licensee's gaming employees;

(5) require fingerprinting of an applicant for a gaming license, a gaming licensee or employee of a gaming licensee or other methods of identification;

(6) prescribe the manner and method of collection and payment of assessments and fees and issuance of licenses;

(7) prescribe grounds and procedures for the revocation or suspension of a license or registration;

(8) require quarterly financial reports and an annual audit prepared by a certified public accountant attesting to the financial condition of a gaming licensee and disclosing whether the accounts, records and control procedures examined are maintained by the gaming licensee as required by this chapter and the regulations promulgated by the commission;

(9) prescribe the minimum procedures for effective control over the internal fiscal affairs of a gaming licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness and the maintenance of reliable records, accounts and reports of transactions, operations and events, including reports by the commission;

(10) provide for a minimum uniform standard of accounting procedures;

(11) establish licensure and work permits for employees working at the gaming establishment and minimum training requirements; provided, however, that the commission may establish

certification procedures for any training schools and the minimum requirements for reciprocal licensing for out-of-state gaming employees;

(12) require that all gaming establishment employees be properly trained in their respective professions;

(13) prescribe the conduct of junkets and conditions of junket agreements between gaming licensees and junket representatives;

(14) provide for the interim authorization of a gaming establishment under this chapter;

(15) develop standards for monitoring and enforcing a gaming licensee's agreement with impacted live entertainment venues;

(16) establish procedures and ensure compliance with the timelines for making the capital investments required under this chapter;

(17) require the posting of payback statistics of slot machines played in a gaming establishment; and

(18) establish security procedures for ensuring the safety of minors on the premises of a gaming establishment.

(b) The commission may, pursuant to section 2 of chapter 30A, promulgate, amend or repeal any regulation promulgated under this chapter as an emergency regulation if such regulation is necessary to protect the interests of the commonwealth in regulating a gaming establishment.

Section 6. (a) There shall be within the commission an investigations and enforcement bureau which shall be the primary enforcement agent for regulatory matters under this chapter. The bureau shall perform such functions as the chair may determine in relation to enforcement, including the investigation of all licensees under this chapter. The bureau shall be under the supervision and control of the deputy director of investigations and enforcement. The deputy

director shall be the executive and administrative head of the bureau and shall be responsible for administering and enforcing the laws relative to the bureau and to each administrative unit of the bureau. The duties of the deputy director as provided in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the chair.

(b) The bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive intelligence on an applicant or licensee under this chapter and to investigate any suspected violations of this chapter.

(c) Officers and employees of the gaming enforcement unit of the state police assigned to the commission under section 70 of chapter 22C shall work with employees of the bureau, under the direction of the deputy director, to investigate violations of this chapter by a licensee or to investigate any activity taking place on the premises of a gaming establishment. Officers assigned to work with the bureau shall record their time and submit total hours to the deputy director and the commission shall reimburse the state police.

(d) The bureau shall notify the division of gaming enforcement in the office of the attorney general of criminal violations by a gaming licensee. The bureau and the division shall cooperate on the regulatory and criminal enforcement of this chapter and may determine whether to proceed with civil or criminal sanctions, or both, against a gaming licensee.

(e) To further effectuate the purposes of this chapter with respect to the investigation and enforcement of gaming establishments and licensees, the bureau may obtain or provide pertinent information regarding applicants or licensees from or to law enforcement entities or gaming

authorities and other domestic, federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically.

(f) The gaming enforcement unit within the department of state police shall have exclusive police jurisdiction over any criminal activity relating to the operation of a gaming establishment or relating to games or gaming that occur inside a gaming establishment; provided, however, that the state police shall have concurrent jurisdiction with the law enforcement agency of the host community on all other policing matters and, in consultation with the commission, shall execute a memorandum of understanding with the law enforcement agency of the host community that shall include, but not be limited to, procedures involving: (i) assignment of police officers of the host community to the gaming enforcement unit of the state police; (ii) first responder calls from the gaming establishment; (iii) emergencies occurring within the gaming establishment, including the gaming area; and (iv) criminal investigations involving employees or patrons of a gaming establishment.

(g) Investigators and employees of the gaming liquor enforcement unit of the alcoholic beverages control commission assigned to the commission under section 72A of chapter 10 shall work with employees of the bureau, under the direction of the deputy director, to enforce, regulate and control the distribution of alcoholic beverages in a gaming establishment. Investigators assigned to work with the bureau shall record their time and submit their total hours to the deputy director and the commission shall reimburse the alcoholic beverages control commission.

Section 7. The commission shall administer and enforce chapters 128A and 128C and any other general or special law related to pari-mutuel wagering or simulcasting. The commission shall

serve as a host racing commission and an off-track betting commission for purposes of 15 U.S.C.A.30001, et seq.

Section 8. (a) The commission shall issue a request for applications for category 1 and category 2 licenses; provided, however, that the commission shall first issue a request for applications for the category 2 licenses. All requests for applications shall include: (i) the time and date for receipt of responses to the request for applications, the manner they are to be received and the address of the office to which the applications shall be delivered; (ii) the form of the application and the method for submission; (iii) a general description of the anticipated schedule for processing the application; (iv) the contact information of commission employees responsible for handling applicant questions; and (v) any other information that the commission determines.

(b) Requests for applications pursuant to subsection (a) shall be advertised in a newspaper of general circulation and on the official internet website of the commission.

(c) The commission shall establish deadlines for the receipt of all applications for a gaming license. Applications received after the deadline shall not be reviewed by the commission.

Section 9. (a) The commission shall prescribe the form of the application for gaming licenses which shall require, but not be limited to, the following:

(1) the name of the applicant;

(2) the mailing address and, if a corporation, the name of the state under the laws of which it is incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;

(3) the identity of each person having a direct or indirect interest in the business and the nature of such interest; provided, however, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the application shall disclose the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the application shall disclose the names and addresses of all members;

(4) an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from a gaming entity or operator in the past 5 years;

(5) clear and convincing evidence of financial stability including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed by government agencies, and business and personal accounting check records and ledgers;

(6) information and documentation to demonstrate that the applicant has sufficient business ability and experience to establish the likelihood of establishment and maintenance of a successful gaming establishment;

(7) a full description of the proposed internal controls and security systems for the proposed gaming establishment and any related facilities;

(8) an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, including: (i) maintaining a smoke-free environment within the gaming establishment under section 22 of chapter 270; (ii) providing complimentary on-site space for an independent substance abuse and

mental health counseling service to be selected by the commission; (iii) prominently displaying information on the signs of problem gambling and how to access assistance; (iv) describing a process for individuals to exclude their names and contact information from a gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications; and (v) instituting other public health strategies as determined by the commission;

(9) the designs for the proposed gaming establishment, including the names and addresses of the architects, engineers and designers, and a timeline of construction that includes detailed stages of construction for the gaming establishment, nongaming structures and racecourse, where applicable;

(10) the number of construction hours estimated to complete the work;

(11) a description of the ancillary entertainment services and amenities to be provided at the proposed gaming establishment; provided, however, that a gaming licensee shall only be permitted to build a live entertainment venue that has less than 1,000 seats or more than 3,500 seats;

(12) the number of employees to be employed at the proposed gaming establishment, including detailed information on the pay rate and benefits for employees;

(13) completed studies and reports as required by the commission, which shall include, but not be limited to, an examination of the proposed gaming establishment's: (i) economic benefits to the region and the commonwealth; (ii) local and regional social, environmental, traffic and infrastructure impacts; (iii) impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host community and surrounding

communities; (iv) cost to the host community and surrounding communities and the commonwealth for the proposed gaming establishment to be located at the proposed location; and (v) the estimated municipal and state tax revenue to be generated by the gaming establishment;

(14) the names of proposed vendors of gaming equipment;

(15) the location of the proposed gaming establishment, which shall include the address, maps, book and page numbers from the appropriate registry of deeds, assessed value of the land at the time of application, and ownership interests over the past 20 years, including all interests, options, agreements in property and demographic, geographic and environmental information, and any other information requested by the commission;

(16) the type and number of games to be conducted at the proposed gaming establishment and the specific location of the games in the proposed gaming establishment;

(17) the number of hotels and rooms, restaurants and other amenities located at the proposed gaming establishment and how they measure in quality to other area hotels and amenities;

(18) whether the applicant's proposed gaming establishment is part of a regional or local economic plan; and

(19) whether the applicant purchased or intends to purchase publicly-owned land for the proposed gaming establishment;

(b) Applications for licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for a gaming license under this chapter, the disclosure of

which would place the applicant at a competitive disadvantage, may be withheld from disclosure under chapter 66.

Section 10. (a) The commission shall set the minimum capital investment for all category 1 licenses; provided, however, that all gaming licensees shall make a capital investment of not less than $500,000,000 into the gaming establishment which shall include, but not be limited to, a gaming area, at least 1 hotel and other amenities as proposed in the application for a category 1 license; and provided further, that the commission shall determine whether it will include the purchase or lease price of the land where the gaming establishment will be located or any infrastructure designed to support the site, including, but not limited to, drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues, whether or not the applicant is an eligible owner or operator under chapter 206 of the acts of 1998, and has suitable capital to finance its operations and the proposed capital investment. Upon award of a gaming license by the commission, the applicant shall be required to deposit 10 per cent of the total investment proposed in the application into an interest-bearing account. Monies received from the applicant shall be held in escrow until the final stage of construction, as detailed in the timeline of construction submitted with the licensee's application and approved by the commission, at which time the deposit shall be returned to the applicant to be applied for the final stage. Should the applicant be unable to complete the gaming establishment, the deposit shall be forfeited to the commonwealth. In place of a cash deposit, the commission may allow for an applicant to secure a deposit bond insuring that 10 per cent of the proposed capital investment shall be forfeited to the commonwealth if the applicant is unable to complete the gaming establishment.

(b) A licensee who fails to begin gaming operations within 1 year after the date specified in its construction timeline, as approved by the commission, shall be subject to suspension or revocation of the gaming license by the commission and may, after being found by the commission after a hearing to have acted in bad faith in its application, be assessed a fine of up to $50,000,000.

(c) Applicants for a category 1 license shall submit their proposed capital investment with their application to the commission which shall include stages of construction of the gaming establishment and the deadline by which the stages and overall construction and any infrastructure improvements will be completed. In awarding a category 1 license, the commission shall determine at what stage of construction a licensee shall be approved to open for business; provided, however, that a licensee shall not be approved to open for business until the commission has determined that at least the gaming area and other ancillary entertainment services and non-gaming amenities, as required by the commission, have been built and are of a superior quality as set forth in the conditions of licensure; and provided further, that total infrastructure improvements onsite and around the vicinity of the gaming establishment, including projects to account for traffic mitigation as determined by the commission, shall be completed before the gaming establishment shall be approved for opening by the commission. The commission shall not approve a gaming establishment to open for business before the completion of the permanent gaming area.

(d) The commission shall determine a minimum licensing fee for each region, which shall not be less than $85,000,000, to be paid by a category 1 licensee within 30 days after the final award of the license. The license shall set forth the conditions to be satisfied by the licensee before the gaming establishment shall be opened to the public. The commission shall set any

renewal fee for such license based on the cost of fees associated with the evaluation of a category 1 licensee under this chapter which shall be deposited into the Gaming Revenue Fund. Such renewal fee will be exclusive of any subsequent licensing fees under this section.

(e) The commission shall determine the sources and total amount of an applicant's proposed capitalization to develop, construct, maintain and operate a proposed gaming establishment under this chapter. Upon award of a gaming license, the commission shall continue to assess the capitalization of a licensee for the duration of construction of the proposed gaming establishment and the term of the license.

Section 11. (a) The commission shall set the minimum capital investment for a category 2 license; provided, however, that the gaming licensee shall make a capital investment of not less than $125,000,000 into the gaming establishment, which shall include, but not be limited to, a gaming area or other amenities as proposed in the application for a category 2 license; and provided further, that the commission shall determine whether it will include the purchase or lease price of the land where the gaming establishment will be located or any infrastructure designed to support the site, including, but not limited to, drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues, whether or not the applicant is an eligible owner or operator under chapter 206 of the acts of 1998, and has suitable capital to finance its operations and the proposed capital investment. The investment required under this section shall be made within 2 years after receiving a gaming license; provided, however, that any infrastructure improvements necessary to increase visitor capacity and account for traffic mitigation shall not be considered part of the required capital investment and, as determined by the commission, shall be completed before the category 2 licensee shall be authorized to operate a slot machine at the gaming establishment.

(b) The commission shall determine the minimum licensing fee for a category 2 licensee, which shall not be less than $25,000,000 to be paid within 30 days after the award of the license.

(c) Upon award of a category 2 license, the commission shall continue to assess the capitalization of a licensee for the duration of construction of the proposed gaming establishment and the term of the gaming license.

Section 12. (a) Upon receipt of an application for a gaming license, the commission shall instruct the bureau to commence an investigation into the suitability of the applicant. In evaluating the suitability of the applicant, the commission shall consider the overall reputation of the applicant including, without limitation:

(1) the integrity, honesty, good character and reputation of the applicant;

(2) the financial stability, integrity and background of the applicant;

(3) the business practices and the business ability of the applicant to establish and maintain a successful gaming establishment;

(4) whether the applicant has a history of compliance with gaming licensing requirements in other jurisdictions;

(5) whether the applicant, at the time of application, is a defendant in litigation involving its business practices;

(6) the suitability of all parties in interest to the gaming license, including affiliates, close associates and the financial resources of the applicant; and

(7) whether the applicant is disqualified from receiving a license under section 16; provided, however, that in considering the rehabilitation of an applicant for a gaming license, the commission shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by clear and convincing evidence, that the applicant has financial responsibility, character, reputation, integrity and general fitness as such to warrant belief by the commission that the applicant will act honestly, fairly, soundly and efficiently as a gaming licensee.

(b) If the bureau determines during its investigation that an applicant has failed to: (i) establish the applicant's integrity or the integrity of any affiliate, close associate, financial source or any person required to be qualified by the commission; (ii) demonstrate responsible business practices in any jurisdiction; or (iii) overcome any other reason, as determined by the commission, as to why it would be injurious to the interests of the commonwealth in awarding the applicant a gaming license, the bureau shall cease any further review and recommend that the commission deny the application.

(c) If the bureau has determined an applicant is suitable to receive a gaming license, the bureau shall recommend that the commission commence a review of the applicant's entire application.

Section 13. (a) All applicants for a gaming license, and any person required by the commission to be qualified for licensure, shall establish its individual qualifications for licensure to the commission by clear and convincing evidence.

(b) All applicants, licensees, registrants and any other person who shall be qualified under this chapter shall have the continuing duty to provide any assistance or information required by the commission and to cooperate in any inquiry or investigation conducted by the commission.

Refusal to answer or produce information, evidence or testimony by an applicant, licensee, registrant or other person required to be qualified under this chapter may result in denial of the application or suspension or revocation of license or registration by the commission.

(c) No applicant, licensee, registrant or person required to be qualified under this chapter shall willfully withhold information from, or knowingly give false or misleading information to, the commission. If the commission determines that an applicant, or a close associate of an applicant, has willfully provided false or misleading information, such applicant shall not be eligible to receive a license under this chapter. Any licensee or other person required to be qualified for licensure under this chapter who willfully provides false or misleading information shall have its license conditioned, suspended or revoked by the commission.

Section 14. (a) The commission shall require anyone with a financial interest in a gaming establishment, or with a financial interest in the business of the gaming licensee or applicant for a gaming license or who is a close associate of a gaming licensee or an applicant for a gaming license, to be qualified for licensure by meeting the criteria provided in sections 12 and 16 and to provide any other information that the commission may require.

(b) For each business that applies for a gaming license, the commission shall determine whether each officer and director of a corporation, other than a publicly-traded corporation, general partner and limited partner of a limited partnership, and member, transferee of a member's interest in a limited liability company, director and manager of a limited liability company which holds or applies for a gaming license meets the standards for qualification of licensure pursuant to sections 12 and 16 and, in the judgment of the commission, any or all of a

business's individual stockholders, lenders, holders of evidence of indebtedness, underwriters, close associates, executives, agents or employees.

(c) A person owning more than 5 per cent of the common stock of the applicant company, directly or indirectly, or a holding, intermediary or subsidiary of an applicant company may be required meet the qualifications for licensure under sections 12 and 16. The commission may waive the licensing requirements for institutional investors holding up to 15 per cent of the stock of the applicant company or holding, intermediary or subsidiary company of the applicant company upon a showing by the person seeking the waiver that the applicant purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the applicant company or a holding, intermediary or subsidiary of the applicant company. An institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the applicant company or a holding, intermediary or subsidiary of the applicant company shall provide not less than 30 days notice to the commission of such intent and the commission shall ensure that the institutional investor meets the qualifications for licensure under said sections 12 and 16 before the institutional investor may take an action that may influence or affect the affairs of the applicant company or a holding, intermediary or subsidiary of the applicant company. Any company holding over 15 per cent of the applicant company, or a holding, intermediary or subsidiary of an applicant company, shall be required to meet the qualifications for licensure under said sections 12 and 16.

(d) A person who is required to be qualified for licensure under this section as a general or limited partner shall not serve as such a partner until that person obtains the required approval or waiver from the commission.

(e) The commission shall require any person involved in the financing of a gaming establishment or an applicant's proposed gaming establishment to be qualified for licensure pursuant to sections 12 and 16 and may allow such person to seek a waiver pursuant to the standards in subsection (c).

(f) A person required to be qualified for licensure shall apply for qualification within 30 days after taking a position with the business. A person who is required to be qualified for licensure pursuant to a decision of the commission shall apply for qualification within 30 days after that decision.

(g) If a corporation or other form of business organization applying for a gaming license is, or if a corporation or other form of business organization holding a gaming license is to become, a subsidiary, each holding company, intermediary company and other entity having an interest in the applicant shall be required to be qualified for licensure under sections 12 and 16.

(h) The commission shall require that a company or individual that can exercise control or provide direction to a gaming licensee or applicant for a gaming license or a holding, intermediary or subsidiary of a gaming licensee or applicant for a gaming license be qualified for licensure under sections 12 and 16; provided, however, that the commission may allow such person to seek a waiver under subsection (c).

(i) The bureau shall investigate each person required to be qualified for licensure under this section and shall: (i) make a recommendation to the commission that the commission approve or deny the application for licensure; or (ii) extend the period for issuing a recommendation in order to obtain additional information necessary for a complete evaluation of the application for a license.

Section 15. No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall:

(1) agree to be a licensed state lottery sales agent under chapter 10 to sell or operate the lottery, multi-jurisdictional and keno games; demonstrate that the lottery and keno games shall be readily accessible to the guests of the gaming establishment and agree that, as a condition of its license to operate a gaming establishment, that it will not create, promote, operate or sell games that are similar to or in direct competition, as determined by the commission, with games offered by the state lottery commission, including the lottery instant games or its lotto style games such as keno or its multi-jurisdictional games;

(2) in accordance with the design plans submitted with the licensee's application to the commission, invest not less than the required capital under this chapter into the gaming establishment;

(3) own or acquire, within 60 days after a license has been awarded, the land where the gaming establishment is proposed to be constructed; provided, however, that ownership of the land shall include a tenancy for a term of years under a lease that extends not less than 60 years beyond the term of the gaming license issued under this chapter;

(4) meet the licensee deposit requirement;

(5) demonstrate that it is able to pay and shall commit to paying the gaming licensing fee;

(6) demonstrate to the commission how the applicant proposes to address lottery mitigation, compulsive gambling problems, workforce development and community development as well as

host and surrounding community impact and mitigation issues as set forth in the memoranda of understanding required under this chapter;

(7) identify the infrastructure costs of the host and surrounding communities incurred in direct relation to the construction and operation of a gaming establishment and commit to a community mitigation plan for those communities;

(8) provide to the commission a signed agreement between the host community and the applicant setting forth the conditions to have a gaming establishment located within the host community; provided, however, that the agreement shall include a community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment;

(9) provide to the commission signed agreements between the surrounding communities and the applicant setting forth the conditions to have a gaming establishment located in proximity to the surrounding communities and documentation of public outreach to those surrounding communities; provided, however, that the agreement shall include a community impact fee for each surrounding community and all stipulations of responsibilities between each surrounding community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment;

(10) provide to the commission signed agreements between the impacted live entertainment venues and the applicant setting forth the conditions to have a gaming establishment located in proximity to the impacted live entertainment venues; provided, however, that the agreement shall

include, but not be limited to, terms relating to cross marketing and coordination of performance schedules;

(11) pay to the commission a nonrefundable application fee of $350,000 to defray the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission within 30 days after notification of insufficient fees or the application shall be rejected;

(12) comply with state and local building codes and local ordinances and bylaws, including sections 61 to 62H, inclusive, of chapter 30;

(13) have received a certified and binding vote on a ballot question at an election in the host community, in favor of such license; provided, however that the vote shall take place after the effective date of this chapter; provided further that upon receipt of a request for an election, the governing body of the municipality shall call for the election to be held not less than 35 days but not more than 90 days from the date that the request was received; provided further, that a binding vote shall be conducted not less than 60 days after the execution of a signed agreement between the host community and the applicant as provided in clause (8); provided further, that the municipality that holds an election shall be reimbursed for its expenses related to the election by the applicant; provided further, that, for purposes of this clause, if the gaming establishment is proposed to be located in a city with a population of at least 125,000 residents according to the most recent enumerated federal census, "host community" shall mean the ward in which the gaming establishment is to be located for the purpose of receiving a certified and binding vote on a ballot question at an election; provided further, that, upon the signing of an agreement between

the host community and the applicant, and upon the request of the applicant, the city or town clerk shall set a date certain for an election on the ballot question in the host community; provided further, that at such election, the question submitted to the voters shall be worded as follows: "Shall the (city/town) of _____ permit the operation of a gaming establishment licensed by the Massachusetts Gaming Commission to be located at ____[description of site]_____? YES _____ NO _____" ; provided further, that if a majority of the votes cast in a host community in answer to the ballot question is in the affirmative, the host community shall be taken to have voted in favor of the applicant's license; provided further, that if a proposed gaming establishment is situated in 2 or more cities or towns, the applicant shall execute an agreement with each host community, or a joint agreement with both communities, and receive a certified and binding vote on a ballot question at an election held in each host community, in favor of such a license;

(14) provide a community impact fee to the host community;

(15) formulate for commission approval and abide by a marketing program by which the applicant shall identify specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming establishment; (ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming establishment and any businesses operated as part of the gaming establishment; and

(16) formulate for commission approval and abide by an affirmative-action program of equal opportunity whereby the applicant establishes specific goals for the utilization of minorities, women and veterans on construction jobs; provided, however, that such goals shall be equal to or greater than the goals contained in the executive office for administration and finance Administration Bulletin Number14. In furtherance of specific goals for the utilization of minorities and women on construction jobs, the licensee shall send to each labor union or representative of workers with which the applicant has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the applicant's commitments.

Section 16. The commission shall deny an application for a gaming license, or any license or registration issued under this chapter, if the applicant: (i) has been convicted of a felony or other convictions involving embezzlement, theft, fraud or perjury; provided, however, that for convictions which occurred before the 10-year period immediately preceding application for licensure, an applicant may demonstrate, and the commission shall consider, the applicant's rehabilitation and whether such conviction should not be an automatic disqualification under this section; (ii) submitted an application for a license under this chapter that contains false or misleading information; (iii) committed prior acts which have not been prosecuted or in which the applicant was not convicted but form a pattern of misconduct that makes the applicant unsuitable for a license under this chapter; or (iv) has affiliates or close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the commonwealth in awarding a gaming license to the applicant.

Section 17. (a) After a review of the entire application and any independent evaluations, the commission shall identify which communities shall be designated as the surrounding

communities of a proposed gaming establishment; provided, however, that any community that has negotiated a surrounding community memorandum of understanding with the applicant that was submitted with the application shall be considered a surrounding community by the commission. In making that determination, the commission shall consider the detailed plan of construction submitted by the applicant, information received from the public and factors which shall include, but not be limited to, population, infrastructure and distance from the gaming establishment and political boundaries. If the commission determines a city or town to be a surrounding community and the applicant has not included a signed agreement with that community in its application, the applicant shall negotiate a signed agreement with that community within 30 days and no action shall be taken on its application prior to the execution of that agreement. When necessary the commission may facilitate the negotiation of fair and reasonable agreements between the applicant and surrounding communities.

(b) After a review of the entire application and any independent evaluations, the commission shall identify which live entertainment venues shall be designated as impacted live entertainment venues of a proposed gaming establishment; provided, however, that any live entertainment venue that has negotiated an agreement with the applicant that was submitted with the application shall be considered an impacted live entertainment venue by the commission. If the commission determines an live entertainment venue to be an impacted live entertainment venue and the applicant has not included a signed agreement with that live entertainment venue in its application, the applicant shall negotiate a signed agreement with that live entertainment venue within 30 days and no action shall be taken on its application prior to the execution of that agreement. A gaming licensee's compliance with such agreements shall be considered upon a gaming licensee's application for renewal of the gaming license. When necessary the

commission may facilitate the negotiation of fair and reasonable agreements between the applicant and impacted live entertainment venues.

(c) The commission shall conduct a public hearing on the application pursuant to section 11 ½ of chapter 30A. An applicant for a gaming license and a municipality designated as a host or surrounding community shall be given at least 30 days notice of the public hearing. The commission shall hold the public hearing within the host community; provided, however, that the host community may request that the commission hold the hearing in another city or town.

(d) The public hearing shall provide the commission the opportunity to address questions and concerns relative to the proposal of a gaming applicant to build a gaming establishment, including the scope and quality of the gaming area and amenities, the integration of the gaming establishment into the surrounding community and the extent of required mitigation plans, as well as receive input from members of the public from the impacted community or communities. During the hearing, the commission may take the opportunity to read into the record any letters of support, opposition or concern from members of the communities in the vicinity of the proposed gaming establishment.

(e) Not later than 90 days after the conclusion of the public hearing, the commission shall take action on the application. The commission may: (i) grant the application for a gaming license; (ii) deny the application; or (iii) extend the period for issuing a decision in order to obtain any additional information necessary for a complete evaluation of the application; provided, however, that the extension shall be not longer than 30 days.

(f) Upon denial of an application, the commission shall prepare and file the commission's decision and, if requested by the applicant, shall further prepare and file a statement of the

reasons for the denial, including specific findings of fact by the commission and the recommendation from the bureau with respect to the suitability of the applicant pursuant to sections 12 and 16. Applicants may request a hearing before the commission to contest any findings of fact by the bureau into the suitability of the applicant.

(g) The commission shall have full discretion as to whether to issue a license. Applicants shall have no legal right or privilege to a gaming license and shall not be entitled to any further review if denied by the commission.

Section 18. In determining whether an applicant shall receive a gaming license, the commission shall evaluate and issue a statement of findings of how each applicant proposes to advance the following objectives:

(1) protecting the lottery from any adverse impacts due to expanded gaming including, but not limited to, developing cross-marketing strategies with the lottery and increasing ticket sales to out-of-state residents;

(2) promoting local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, hotels, retail outlets and impacted live entertainment venues;

(3) realizing maximum capital investment exclusive of land acquisition and infrastructure improvements;

(4) implementing a workforce development plan to utilize the existing labor force, including the estimated number of construction jobs a proposed gaming establishment will

generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming establishment;

(5) building a gaming establishment of high caliber with a variety of quality amenities to be included as part of the gaming establishment and operated in partnership with local hotels and dining, retail and entertainment facilities so that patrons experience the diversified regional tourism industry;

(6) taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations;

(7) providing a market analysis detailing the benefits of the site location of the gaming establishment and the estimated recapture rate of gaming-related spending by residents travelling to out of state gaming establishments;

(8) utilizing sustainable development principles including, but not limited to: (i) being certified as gold or higher under the appropriate certification category in the Leadership in Environmental and Energy Design program created by the United States Green Building Council; (ii) meeting or exceeding the stretch energy code requirements contained in Appendix 120AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of energy and environmental affairs; (iii) efforts to mitigate vehicle trips; (iv) efforts to converse water and manage storm water; (v) demonstration that electrical and HVAC equipment and appliances will be EnergyStar labeled where available; (vi) procuring or generating on-site 10 per cent of its annual electricity consumption from renewable sources qualified by the department of energy resources under

section 11F of chapter 25A; and (vii) developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;

(9) establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that: (i) establishes transparent career paths with measurable criteria within the gaming establishment that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion; (ii) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and (iii) establishes an on-site child day-care program;

(10) contracting with local business owners for the provision of services and goods to the gaming establishment, including developing plans designed to assist businesses in the commonwealth in identifying the needs for goods and services to the establishment;

(11) maximizing revenues received by the commonwealth;

(12) providing a high number of quality jobs in the gaming establishment;

(13) offering the highest and best value to create a secure and robust gaming market in the region and the commonwealth;

(14) mitigating potential impacts on host and surrounding communities which might result from the development or operation of the gaming establishment;

(15) purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming establishment;

(16) implementing a marketing program that identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming establishment; (ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming establishment and any businesses operated as part of the gaming establishment; and

(17) implementing a workforce development plan that: (i) incorporates an affirmative action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with disabilities; (ii) utilizes the existing labor force in the commonwealth,; (iii) estimates the number of construction jobs a gaming establishment will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities and women on those construction jobs; (iv) identifies workforce training programs offered by the gaming establishment; and (v) identifies the methods for accessing employment at the gaming establishment.

Section 19. (a) The commission may issue not more than 3 category 1 licenses based on the applications and bids submitted to the commission. Not more than 1 license shall be awarded per region. Regions shall be established as follows:

(1) region A: suffolk, middlesex, essex, norfolk and worcester counties;

(2) region B: hampshire, hampden, franklin and berkshire counties; and

(3) region C: bristol, plymouth, nantucket, dukes and barnstable counties.

Gaming licenses shall only be issued to applicants who are qualified under the criteria set forth in this chapter, as determined by the commission. Within any region, if the commission is not convinced that there is an applicant that has both met the eligibility criteria and provided convincing evidence that the applicant will provide value to the region in which the gaming establishment is proposed to be located and to the commonwealth, no gaming license shall be awarded in that region.

(b) No other gaming license shall be issued by the commission for a period of 15 years after the initial awarding of gaming licenses.

(c) No gaming licensee shall transfer a gaming license or any direct or indirect interest in the gaming license or a gaming establishment without the majority approval of the commission. A person seeking to acquire a gaming license through a transfer shall qualify for licensure under this chapter. The commission shall reject a gaming license transfer or a transfer of interest in the gaming establishment to an unsuitable person and may reject a proposed transfer that, in the opinion of the commission, would be disadvantageous to the interests of the commonwealth.

(d) The commission shall take into consideration the physical distance in selecting the locations of the gaming establishments as they relate to each other and how they maximize benefits to the commonwealth.

(e) If a category 1 license is awarded to an applicant with a simulcasting license under chapter 128C as of July 1, 2011, a condition of the gaming license shall be to maintain the simulcasting license under said chapter 128C. Upon failure to conduct simulcast wagering, the commission shall suspend the category 1 license.

(f) If a category 1 license is awarded to an applicant with live racing under chapter 128A as of July 1, 2011, a condition of the gaming license shall be to maintain and complete the annual live racing season under said chapter 128A. Upon failure to conduct live racing the commission shall suspend the category 1 license.

(g) For the purposes of subsections (e) and (f), an applicant for a gaming license shall be considered to be the holder of a license under chapter 128A or chapter 128C if the applicant: (i) owns 50.1 or more per cent of the common stock of the company which obtained a license under said chapter 128A or 128C; and (ii) is a person who owns more than 5 per cent of the common stock of the applicant company, directly or indirectly, or is an institutional investor in the gaming license.

Section 20. (a) The commission may issue not more than 1 category 2 license; provided, however, that the category 2 license shall only be issued to an applicant who is qualified under the criteria set forth in this chapter as determined by the commission. If the commission is not convinced that there is an applicant that has both met the eligibility criteria and provided

convincing evidence that the applicant will provide value to the commonwealth, no category 2 license shall be awarded.

(b) If a category 2 license is awarded to an applicant with a simulcasting license under chapter 128C as of July 1, 2011, a condition of said license shall be to maintain the simulcasting license.pursuant to said chapter 128C. Upon failure to conduct simulcast wagering the commission shall suspend the category 2 license.

(c) If a category 2 license is awarded to an applicant with live racing, pursuant to chapter 128A as of July 1, 2011, a condition of the license shall be to maintain and complete the annual live racing season pursuant to said chapter 128A. Upon failure to conduct live racing, the commission shall suspend the category 2 license.

(d) For the purposes of subsections (b) and (c), an applicant for a gaming license shall be considered to be the holder of a license under chapter 128A or chapter 128C if the applicant: (i) owns 50.1 or more per cent of the common stock of the company which obtained a license under chapter 128A or 128C; and (ii) includes a person who owns more than 5 per cent of the common stock of the applicant company, directly or indirectly, or is an institutional investor in the gaming license.

(e) A category 2 license issued pursuant to this chapter shall not be transferrable or assignable without the approval of the commission; provided, however, that for 5 years after the initial issuance of a category 2 license, the commission shall only approve such a transfer if: (i) the licensee experiences a change in ownership; or (ii) the licensee fails to maintain suitability or other circumstances which the commission may consider, which, in the opinion of a majority of

members of the commission, impact a licensee's ability to successfully operate a gaming establishment.

(f) A category 2 license issued pursuant to this chapter shall be for a period of 5 years. The commission shall establish procedures for renewal and set the renewal fee based on the cost of fees associated with the evaluation of a licensee; provided, however, that the cost of renewal shall not be less than $100,000. Any renewal fees shall be deposited into the Gaming Revenue Fund.

Section 21. (a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:

(1) have an affirmative obligation to abide by every statement made in its application to the commission including all evaluation criteria and eligibility requirements;

(2) comply with all laws of the commonwealth, the laws of the United States and all rules and regulations promulgated under this chapter;

(3) pay daily to the commission the gross gaming revenue payment;

(4) make, or cause to be made, capital expenditures to its gaming establishment in a minimum aggregate amount equal to or greater than 3.5 per cent of the net gaming revenues derived from the establishment;

(5) change its business governing structure without the notification and approval of the commission;

(6) operate, invest or own, in whole or in part, another gaming licensee's license or gaming establishment;

(7) cooperate with the commission and the attorney general in all gaming-related investigations. Each gaming licensee shall make readily available all documents, materials, equipment, personnel and any other items requested during all investigations; provided, however, that material that the gaming licensee considers a trade secret or detrimental to the gaming licensee if it were made public may, with the commission's approval, be protected from public disclosure and the gaming licensee may require nondisclosure agreements with the commission before disclosing such material;

(8) cooperate with the commission and the attorney general with respect to the investigation of any criminal matter; provided, however, that the gaming licensee shall, upon receipt of a criminal or civil process compelling testimony or production of documents in connection with a civil or criminal investigation, immediately disclose such information to the commission; and provided further, that this clause shall not prohibit private persons or public entities from seeking any remedy or damages against a gaming licensee;

(9) allow the commission or the division and state police officers assigned to the commission or the division to conduct warrantless searches of the licensee's gaming area;

(10) have a duty to inform the commission of any action which the gaming licensee reasonably believes would constitute a violation of this chapter, and shall assist the commission and any federal or state law enforcement agency in the investigation and prosecution of such violation; provided, however, that no person who informs the commission of such an action shall

be discriminated against by an applicant or gaming licensee as a consequence for having supplied such information;

(11) provide an office for the commission at the gaming establishment and the designated state police unit at the gaming establishment; provided, however, that the commission shall establish the minimum requirements for square footage for the state police office, office furnishings and parking space;

(12) collect and annually report to the commission a detailed statistical report on the number, job titles, benefits and salaries of employees hired and retained in employment at the gaming establishment;

(13) employ only those persons licensed or registered by the commission;

(14) do business only with those vendors licensed or registered by the commission;

(15) provide to the commission aggregate demographic information with respect to the gaming licensee's customers in a manner and under a schedule to be defined by the commission;

(16) provide complimentary on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior;

(17) keep conspicuously posted in the gaming area a notice containing the name and a telephone number for problem gambling assistance; provided, however, that the commission may require the gaming licensee to provide this information in more than 1 language;

(18) provide a process for individuals to exclude their names and contact information from the gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications;

(19) institute additional public health strategies as required by the commission;

(20) abide by an affirmative-action program of equal opportunity by which the gaming licensee guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including a person with a disability, under the laws of the commonwealth.

(21) formulate for commission approval and abide by an affirmative marketing program by which the gaming licensee identifies specific goals, expressed as an overall program goal applicable to the total dollar amount or value of contracts entered into, for the utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming establishment; (ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming establishment and any businesses operated as part of the gaming establishment; provided, however, that the specific goals for the utilization of such minority business enterprises, women business enterprises and veteran business enterprises shall be based on the availability of such minority business enterprises, women business enterprises and veteran business enterprises engaged in the type of work to be contracted by the gaming licensee;

(22) formulate for commission approval and abide by an affirmative action program of equal opportunity whereby the licensee establishes specific goals for the utilization of minorities, women and veterans on construction jobs; provided, however, that such goals shall be equal to or greater than the goals contained in executive office of administration and finance administration Bulletin Number 14; provided further, that in furtherance of the specific goals for the utilization of minorities, women and veterans on construction jobs, the gaming licensee shall send to each labor union or representative of workers with which the gaming licensee or its agent has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the gaming licensee's commitments;

(23) provide to the commission, on a quarterly basis, a detailed statistical report on the number, gender and race of individuals hired to perform labor as part of the construction of the gaming establishment; and

(24) collect and annually provide to the commission a detailed statistical report on the total dollar amounts contracted with and actually paid to minority business enterprises, women business enterprises and veterans business enterprises in: (i) design contracts; (ii) construction contracts; and (iii) contracts for every good and service procured by the gaming establishment; provided, however, that such statistical report shall also identify the amounts so contracted as a percentage of total dollar amounts contracted with and actually paid to all firms.

(b) No person shall transfer a gaming license, a direct or indirect real interest, structure, real property, premises, facility, personal interest or pecuniary interest under a gaming license issued under this chapter or enter into an option contract, management contract or other agreement or contract providing for such transfer in the present or future, without the notification

to, and approval by, the commission. The commission may promulgate rules and regulations that create exemptions from the approval requirement; provided, however, that: (i) in no event shall a bona fide commercial financial institution licensed by the division of banks which becomes a substantial party of interest with a gaming licensee be considered a transferee; (ii) the commission may require the transferor, transferee, or both, to pay to the commission an amount representing the commonwealth's share of the increased value for the transferred licenses, property or interest; provided, further, that the commission shall consider as a factor in determining the amount of the payment the market value of the gaming license, property or interest when it was acquired and at the time of the transfer; provided further, that the commission may place additional conditions or restrictions on a transfer that the commission considers suitable; provided further, that the commission may reject a transfer if the commission considers the transfer unsuitable; and (iii) any payments collected by the commission on behalf of the commonwealth based on the transfer shall be deposited in the same manner as license fees are deposited.

(c) The commission may include any reasonable additional requirements to the license conditions.

Section 22. The sale, assignment, transfer, pledge or other disposition of any security issued by a corporation, which holds a gaming license shall be conditional and shall be ineffective if disapproved by the commission. If at any time the commission finds that an individual owner or holder of a security of a corporate licensee or of a holding or intermediary company with respect thereto is not qualified under this chapter and if as a result the corporate licensee is no longer qualified to continue as a gaming licensee, the commission shall take any action necessary to

protect the interests of the commonwealth including, but not limited to, suspension or revocation of the gaming license of the corporation.

Each corporation which has been issued a gaming license pursuant to this chapter shall file a report of any change of its corporate officers or members of its board of directors with the commission. No officer or director shall be entitled to exercise any powers of office until qualified by the commission.

Section 23. (a) A category 1 or category 2 licensee shall issue an annual report to the commission explicitly stating its progress on meeting each of the stated goals and stipulations put forth in the licensee's original application. Inability to meet stated goals within a reasonable time frame, as determined by the commission, shall result in additional fees as deemed fair and reasonable by the commission. Failure to meet stated goals may also result in revocation of the license at any time by the commission.

Nothing in this section shall preclude the commission at any time from reviewing the business operations of a gaming licensee to ensure that the conditions of licensure are being met including, but not limited to, the suitability of the gaming licensee and any affiliates and the fiscal stability of the gaming establishment.

(b) The commission may condition, suspend or revoke a gaming license upon a finding that a licensee: (i) has committed a criminal or civil offense under this chapter or under any other laws of the commonwealth; (ii) is not in compliance with gaming regulations or is under criminal investigation in another jurisdiction; (iii) has breached a condition of licensure; (iv) has affiliates, close associates or employees that are not qualified or licensed under this chapter with whom the gaming licensee continues to conduct business or employ; (v) is no longer capable of

maintaining operations at a gaming establishment; or (vi) whose business practice, upon a determination by the commission, is injurious to the policy objectives of this chapter.

(c) Whenever any person contracts to transfer any property relating to an ongoing gaming establishment, including a security holding in a gaming licensee or holding or intermediary company, under circumstances which require that the transferee obtain licensure under this chapter, the contract shall not specify a closing or settlement date which is earlier than the 121 days after the submission of a completed application for licensure or qualification, which application shall include a fully executed and approved trust agreement.

The commission shall hold a hearing and render a decision on the interim authorization of the new applicant. If the commission grants interim authorization, then the closing or settlement may occur without interruption of operations of the gaming establishment. If the commission denies interim authorization, there shall be no closing or settlement until the commission makes a determination on the qualification of the applicant, and if the commission then denies qualification the contract shall thereby be terminated for all purposes without liability on the part of the transferor. The commission shall promulgate further regulations for interim authorization of a gaming establishment.

(d) No person or affiliate shall be awarded, purchase or otherwise hold or have a financial interest in more than 1gaming license issued by the commission.

Section 24. (a) An applicant for a gaming licensee shall maintain an existing racing facility on the premises; provided, however, that the gaming licensee shall increase the number of live racing days to a minimum of 125 days according to the following schedule: (i) in the first calendar year of operation, a gaming licensee shall hold 105 racing days; (ii) in the second

calendar year of operation, a gaming licensee shall hold 115 racing days; and (iii) in the third and subsequent calendar years of operation, a gaming licensee shall hold 125 racing days;

(b) A category 2 licensee may increase the number of live racing days if the gaming licensee is holding a minimum of 125 racing days within 3 years of receiving a category 2 license. If a gaming licensee does not conduct live racing for the minimum number of days set forth in subsection (a), the commission shall suspend the gaming license.

(c) After 3 years of operation of the gaming establishment and in consultation with the parties to the purse agreement, the commission may adjust the amount of required racing days at a gaming establishment based on fields, demand and racing performance.

(d) A gaming licensee with a live racetrack shall have an annual purse agreement in effect by December 31 of each year for the following year's racing; provided, however, that if the parties to a purse agreement at a gaming establishment cannot in good faith negotiate an agreement by December 31, the purse agreement shall be arbitrated by the commission.

Section 25. (a) No gaming licensee shall conduct gaming without an operations certificate issued by the commission. An operations certificate shall only be issued upon compliance with the requirements of this chapter including, but not limited to: (i) implementation of all management controls required by the commission including, without limitation, controls on accounting, wagering and auditing; (ii) implementation of all security precautions required by the commission; (iii) an up to date listing of all gaming employees; (iv) licensing or registering of all gaming employees; (v) the provision of office space at the gaming establishment for use by the commission employees; (vi) the hours of operation of the gaming establishment; and (vii) that its personnel and procedures are efficient and prepared to entertain the public.

The operations certificate shall be conspicuously posted and shall state the number of slot machines, table games or other authorized games, if applicable.

(b) A gaming licensee may operate a gaming establishment from 6:00 am to 5:59 am; provided, however, that the gaming establishment shall register its hours of operation with the commission.

(c) Each gaming establishment shall arrange its gaming area in such a manner as to promote optimum security for the gaming establishment operations including, but not limited to: (i) a closed circuit television system according to specifications approved by the commission, with access on the licensed premises to the system or its signal provided to the commission; (ii) rooms or locations approved by the commission for use by commission employees; and (iii) design specifications that ensure that visibility in a gaming area is not obstructed in any way that might interfere with the ability of the commission or the division to supervise gaming establishment operations.

(d) Each applicant for a gaming license shall submit to the commission: (i) a description of its minimum system of internal procedures and administrative and accounting controls for gaming and any simulcast wagering operations; (ii) a certification by the applicant's chief legal officer that the submitted procedures conform to this chapter and any regulations promulgated hereunder; and (iii) a certification by the applicant's chief financial officer that the submitted procedures provide adequate and effective controls, establish a consistent overall system of internal procedures and administrative and accounting controls and conform to generally accepted accounting principles and any additional standards required by the commission. Each applicant shall submit the above descriptions and certifications at least 30 business days before

such operations are scheduled to commence unless otherwise directed by the commission; provided, however, that no gaming licensee shall commence gaming operations or alter its minimum internal controls until such system of minimum controls is approved by the commission. The commission shall establish regulations for the information required in the internal control submission.

Any proposed changes to a gaming licensee's system of internal procedures and controls shall be submitted to the commission along with 2 new certifications from its chief legal and financial officers. If the commission does not object, the gaming licensee may make the proposed changes 15 business days after submitting a description of the changes to the commission.

(e) Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a gaming establishment except in a gaming area approved by the commission or in a restricted area used for the inspection, repair or storage of such equipment and specifically designated for that purpose.

(f) Each gaming establishment shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens, checks, plaques, gaming vouchers, coupons and other devices or items of value used in wagering and approved by the commission that are received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value.

(g) A dealer may accept tips or gratuities from a patron at the table game where such dealer is conducting play; provided, however, that such tips or gratuities shall be placed in a pool for distribution among other dealers. The commission shall determine how tips and gratuities shall

be set aside for the dealer pool as well as the manner of distribution among dealers. No key gaming employee or any other gaming official who serves in a supervisory position shall solicit or accept a tip or gratuity from a player or patron in the gaming establishment where the employee is employed.

(h) No person under the age of 21 shall be permitted to wager or be in a gaming area; provided, however, that a person 18 years or over of age who is a licensed employee of the gaming establishment may be in a gaming area if in the performance of the duties the employee is licensed to undertake.

(i) No category 1 or category 2 licensee shall operate unless the gaming establishment manager or the manager's designee is on the premises and representatives of the commission are present at the gaming establishment.

(j) Each gaming establishment shall file an emergency response plan with the fire department and police department of the host community which shall include, but not be limited to: (i) a layout identifying all areas within the facility and grounds, including support systems and the internal and external access routes; (ii) the location and inventory of emergency response equipment and the contact information of the emergency response coordinator for the gaming establishment; (iii) the location of any hazardous substances and a description of any public health or safety hazards present on site; (iv) a description of any special equipment needed to respond to an emergency at the gaming establishment; (v) an evacuation plan; and (vi) any other information relating to emergency response as requested by the commission, the fire department or the police department of the host community.

Section 26. (a) Notwithstanding chapter 138 or any other general or special law or rule or regulation to the contrary, the commission may grant, upon request of an applicant for a gaming license, a gaming beverage license for the sale and distribution of alcoholic beverages to be drunk on the premises of a gaming establishment. The division of gaming liquor enforcement of the alcoholic beverage control commission shall have the authority to enforce, regulate and control the distribution of alcoholic beverages in a gaming establishment.

(b) The fee for the gaming beverage license and any renewals of the license shall be determined by the commission. The application fee shall be remitted with the gaming application fee.

(c) Notwithstanding any regulation to the contrary, a licensee under this section shall be permitted to distribute alcohol free of charge and for on-premise consumption to patrons in the gaming area or as a complimentary service or item in the gaming establishment; provided, however, that the commission, in consultation with the alcoholic beverages control commission, shall promulgate regulations on such distribution as well as the forms of identification that may be presented to the gaming licensee to demonstrate proof that a person has attained the age of 21.

(d) The request submitted to the commission for a gaming beverage license by an applicant for a gaming license shall detail all areas where alcoholic beverages will be served within the gaming establishment. In issuing a gaming beverage license, the commission shall describe the scope of the particular license and any restrictions and limitations; provided, however, that the gaming beverage license shall not permit the sale or distribution of alcoholic beverages between the hours of 2 a.m. and 8 a.m.

(e) A gaming licensee shall be responsible for violations of the gaming beverage license in the gaming establishment. The commission may revoke, suspend, refuse to renew or refuse to transfer a gaming beverage license for violations of chapter 138 that pertain to the sale and distribution of alcohol drunk on-premises and the regulations adopted by the commission. If, at any time, a gaming licensee elects temporary suspension of their gaming license due to violations of this section, said gaming licensee shall owe the commonwealth the average tax on gross gaming revenue based on an appropriate period of time as determined by the commission for the number of days operation was suspended.

(f) A gaming beverage license shall be nontransferable without prior approval from the commission. If the gaming beverage license is cancelled, revoked or no longer in use, it shall be returned physically, with all the legal rights, privileges and restrictions pertaining to the license, to the commission and the commission may then grant the license to a new gaming licensee under the same conditions as specified in this section.

(g) A license granted under this section shall not decrease the number of such licenses authorized to be granted to the host community under chapter 138.

Section 27. (a) A gaming licensee shall be permitted to issue credit to a patron of a gaming establishment in accordance with regulations promulgated by the commission. Such regulations shall include, but not be limited to: (i) procedures for confirming that a patron has an established credit history and is in good standing; (ii) whether the patron has a good credit history with the gaming establishment; (iii) authorization of any credit instrument; (iv) methods for acknowledging a credit instrument and payment of debt; and (v) information to be provided by the patron to the gaming establishment to be shared with the commission for auditing purposes.

(b) Except as otherwise authorized by the commission through regulations under this chapter, no gaming establishment , nor any person acting on behalf of said gaming establishment shall cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value, or which represents value, to enable any person to place a wager; or release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming or simulcast wagering activity, without maintaining a written record of the release or discharge in accordance with the rules of the commission. Nothing in this section shall prohibit a gaming establishment from accepting credit cards for non-gaming related purchases or services.

(c) Checks cashed in conformity with the requirements of this section shall be valid instruments enforceable under the laws of the commonwealth. Any check cashed, transferred, conveyed or given in violation of this section or regulations promulgated thereunder shall be invalid and unenforceable.

(d) The commission shall establish procedures and standards for approving promotional gaming credits, provided, however, that no such credit shall be reported as a promotional gaming credit by an operator of a gaming establishment unless the operator can establish that the credit was issued by the gaming establishment and received from a patron as a wager at a slot machine in the gaming establishment, provided further, that such promotional gaming credit shall not be taxable for the purposes of determining gross revenue.

(e) No person, other than a gaming licensee, shall issue credit to a patron in a gaming establishment.

(f) The commission shall, in consultation with the department of transitional assistance, the department of labor and workforce development, the department of housing and community development or the applicable administering agency, establish by regulation procedures and standards to prohibit a gaming establishment or any person acting on behalf of a gaming establishment from: (i) cashing a government-issued check; (ii) from operating on its premises any credit card or ATM machine that would allow a patron to obtain cash from a government-issued Electronic Benefits Transfer Card; and (iii) from extending or issuing credit to a patron of a gaming establishment who receives any form of income-based public assistance including, but not limited to, the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Emergency Aid to Elders, Disabled and Children, public housing assistance, MassHealth and unemployment insurance. The procedures and standards established shall ensure the privacy of all patrons receiving public assistance.

(g) A person may petition the commission to place the person's name on a list of persons to whom the extension of credit by a gaming establishment shall be prohibited. Any person filing such petition shall submit to the commission the person's name, address and date of birth. The person shall not be required to provide a reason for the request. The commission shall provide this list to the credit department of each gaming establishment; provided, however, that neither the commission nor the credit department of a gaming establishment shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have their name removed from the list, the person shall petition the commission in accordance with procedures for removal set forth by the commission. If the commission approves the request, the commission shall so inform the credit department of the gaming establishments no later than 7 days after approving the request.

(h) Debt collections under this section and regulations promulgated thereunder shall be limited to key gaming employees or attorneys acting directly on behalf of gaming licensees; provided, further, that a key gaming employee shall be prohibited from making any such collections if they serve as a junket representative for the gaming licensee.

Section 28. (a) No gaming licensee shall offer to provide any complimentary services, gifts, cash or other items of value to any person unless the complimentary item consists of a room, food, beverage, transportation or entertainment expenses provided directly to the patron and the patron's guests by the gaming licensee or indirectly to the patron and the patron's guests on behalf of a third party or the complimentary item consists of coins, tokens, cash or other complimentary items or services provided through a complimentary distribution program which shall be filed and approved by the commission upon the implementation of the program or maintained under regulation.

(b) Gaming licensees shall submit quarterly reports to the commission covering all complimentary services offered or engaged in by the gaming licensee during the immediately preceding quarter. The reports shall identify regulated complimentary services and the costs of those services, the number of people who received each service or item and such other information as the commission may require. The report shall also document any services or items valued in excess of $2,000 that were provided to patrons, including detailed reasons as to why they were provided.

(c) Complimentary services or items shall be valued in an amount based upon the retail price normally charged by the gaming licensee for the service or item. The value of a complimentary service or item not normally offered for sale by a gaming licensee or provided by a third party on

behalf of a gaming licensee shall be the cost to the gaming licensee of providing the service or item, as determined under rules adopted by the commission.

Section 29. A gaming establishment offering a cashless wagering system shall allow individuals to monitor and impose betting limits on their cashless wagering. The gaming establishment shall allow individuals to set betting limits on their cashless wagering including, but not limited to, per bet limits, hourly limits, daily limits, weekly limits and monthly limits. An individual may lower limits and increase limits; provided, that the individual shall not increase betting limits more than once in a 24 hour period. Upon request by an individual, the gaming establishment shall provide to that individual a statement of that individual's cashless wagering activity for any given time period including total bets, wins and losses. Activity under this section shall be monitored by the commission. Individuals on the list of excluded persons shall not be permitted to participate in a cashless wagering system.

Section 30. (a) No person shall be employed by a gaming licensee unless such person has been licensed by or registered with the commission.

(b) Any person seeking a key gaming employee license or a gaming employee license shall file an application with the bureau. Such application shall be on a form prescribed by the bureau and shall include, but shall not be limited to, the following: (i) the name of the applicant; (ii) the address of the applicant; (iii) a detailed employment history of the applicant; (iv) fingerprints; (v) a criminal and arrest record; and (vi) any civil judgments obtained against the applicant pertaining to antitrust or security regulation. The bureau may require such other information as it considers appropriate including, but not limited to, information related to the financial integrity of the applicant and may require the applicant to submit other documentation it considers

appropriate including, but not limited to, bank accounts and records, bank references, business and personal income and disbursement schedules, tax returns and other reports filed by government agencies and business and personal accounting check records and ledgers.

(c) All other employees in a gaming establishment who are not considered to be gaming employees, key gaming employees or who have restricted access to an area of the gaming establishment or knowledge of security procedures, shall be required to register with the bureau as a gaming service employee and shall produce such information as the bureau may require to become registered under this chapter.

(d) Upon receipt of an application for a key gaming employee license and a gaming employee license the bureau shall conduct an investigation of each applicant which shall include obtaining criminal offender record information from the criminal history systems board as well as exchanging fingerprint data and criminal history with the state police and the United States Federal Bureau of Investigation.

(e) Upon petition by a gaming licensee, the commission may issue a temporary license to an applicant for a key gaming employee license or a gaming employee license provided that: (i) the applicant for a key gaming employee license or gaming employee license has filed a complete application with the commission; and (ii) the gaming licensee certifies, and the commission finds, that the issuance of a temporary license is necessary for the operation of the gaming establishment and is not designed to circumvent the normal licensing procedures.

Unless otherwise stated by the commission, a temporary license issued under this section shall expire 6 months from the date of its issuance and may be renewed, at the discretion of the commission, for an additional 6 month period.

(f) The commission may deny any application for a key gaming employee or gaming employee license or the registration of any other employee of a gaming establishment if the commission finds that an applicant or registrant is disqualified under section 16 or may be unsuitable for licensure under any of the criteria set forth in section 12; provided, however, that the commission, in its discretion, may issue a license to an applicant for a gaming employee license or register a gaming service employee who has a prior conviction if the applicant or registrant can affirmatively demonstrate the applicant's rehabilitation. In considering the rehabilitation of an applicant for a license under this section, the commission shall consider the following: (i) the nature and duties of the position of the applicant; (ii) the nature and seriousness of the offense or conduct; (iii) the circumstances under which the offense or conduct occurred; (iv) the date of the offense or conduct; (v) the age of the applicant when the offense or conduct was committed; (vi) whether the offense or conduct was an isolated or repeated incident; (vii) any social conditions which may have contributed to the offense or conduct; and (viii) any evidence of rehabilitation, including recommendations and references of persons supervising the applicant since the offense or conduct was committed.

(g) After completing an investigation of an applicant for a key gaming employee or gaming employee license the bureau shall approve or deny the license. Any orders by the bureau denying an application under this section shall be accompanied with an explanation of why an applicant did not meet the qualifications for licensure under this chapter. An applicant for a key gaming employee or gaming employee license may request a hearing before the bureau to contest the findings. After the hearing the applicant may appeal the decision of the bureau to the commission and the commission may hear the appeal on the record. The decision of the

commission shall be final and applicants for a key gaming employee or gaming employee license shall not be entitled to further review.

(h) The commission shall be authorized to condition, suspend or revoke any license or registration under this section if the commission finds that a licensee or registrant has: (i) been arrested or convicted of a crime while employed by a gaming establishment and failed to report charges or the conviction to the commission; (ii) failed to comply with the requirements of section 14; or (iii) failed to comply with any of the requirements of this chapter pertaining to licensees.

(i) The commission shall establish fees for a key gaming employee and a gaming employee license which shall include costs incurred for conducting a background investigation into an applicant for a license. The commission shall establish the term of a key gaming employee and a gaming employee license. It shall be the responsibility of any key gaming employee or gaming employee to ensure that the employee's license is current.

Section 31. (a) No person shall conduct a business with a gaming licensee unless such person has been licensed or registered with the commission.

(b) Any person seeking a gaming vendor license shall file an application with the bureau. Such application shall be on a form prescribed by the commission and shall include, but shall not be limited to, the following: (i) the name of the applicant; (ii) the post office address and if a corporation, the name of the state under the laws of which it is incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders; (iii) a criminal and arrest record; (iv) any civil judgments obtained against the person pertaining to antitrust or security regulation; (v) the identity of every person having a direct or indirect interest

in the business, and the nature of such interest; provided further, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the names and addresses of all members; (vi) an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from any gaming entity or operator in the past 5 years; and (vii) clear and convincing evidence of financial stability including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed by government agencies and business and personal accounting check records and ledgers. The commission may require such other information as it considers appropriate including, but not limited to, information related to the financial integrity of the applicant and may require the applicant to submit other documentation it considers appropriate including, but not limited to, bank accounts and records, bank references, business and personal income and disbursement schedules, tax returns and other reports filed by government agencies and business and personal accounting check records and ledgers.

(c) No person shall manufacture, sell, distribute, test or repair slot machines, other than antique slot machines as defined in section 5A of chapter 271, without a valid gaming vendor license issued by the commission.

(d) All other suppliers or vendors who are not considered to be gaming vendors including, but not limited to, construction companies, vending machine providers, linen suppliers, garbage handlers, maintenance companies, limousine services, food purveyors or suppliers of alcoholic beverages, shall be considered non-gaming vendors and shall be required to register with the

commission and shall produce such information as the commission may require; provided, however, that the commission may require any vendor regularly conducting over $250,000 of business with a gaming licensee within a 12-month period or $100,000 of business within a 3-year period to be licensed as a gaming vendor.

(e) Any person owning more than 5 per cent of the common stock of a company required to be licensed as a gaming vendor, or a holding, intermediary or subsidiary of such company, shall be required to file for licensure. The commission may waive the licensing requirements for institutional investors holding up to 15 per cent of the stock of the company, or holding, intermediary or subsidiary company of the such company, upon a showing by the person seeking the waiver that the applicant purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the company or a holding, intermediary or subsidiary of the such company. Any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the gaming vendor, or a holding, intermediary or subsidiary of the gaming vendor, shall provide not less than 30 days notice to the commission of such intent and shall file an application and be subject to the licensing requirements of this chapter before taking any action that may influence or affect the affairs of the applicant company or a holding, intermediary or subsidiary of the applicant company. Any company holding over 15 per cent of a gaming vendor, or a holding, intermediary or subsidiary of a gaming vendor, shall be licensed under this chapter.

(f) If an applicant for a gaming vendor license or vendor or supplier registration is licensed or registered in another jurisdiction within the United States with comparable license and registration requirements and is in good standing in all the jurisdictions in which it holds a license or registration, the commission may enter into a reciprocal agreement with the applicant

to allow for an abbreviated licensing or registration process and issue a gaming vendor license or registration under this section; provided, however, that the commission shall reserve its rights to investigate the qualifications of an applicant at any time and may require the applicant to submit to a full application for a gaming vendor license or provide further information for registration.

(g) The bureau shall deny any application for a gaming vendor license or the registration of any other vendor or supplier if the bureau finds that any applicant or registrant is disqualified under section 16 or may be unsuitable for licensure under any of the criteria set forth in section 12.

(h) After completing an investigation of an applicant for a gaming vendor license, the bureau shall approve or deny the license. Any orders by the bureau denying an application under this section shall be accompanied with an explanation of why an applicant did not meet the qualifications for licensure under this section. An applicant for a gaming vendor license may request a hearing before the bureau to contest the findings. After the hearing the applicant may appeal the decision of the bureau to the commission and the commission may hear the appeal on the record. The decision of the commission shall be the final and applicants for a gaming vendor license shall not be entitled to further review.

(i) The commission shall be authorized to condition, suspend or revoke any license or registration under this section if the commission finds that a licensee or registrant has: (i) been arrested or convicted of a crime; (ii) failed to comply with section 13; or (iii) failed to comply with any provision of this chapter pertaining to licensees.

(j) The commission shall establish a master gaming or non-gaming vendor list to monitor all vendor contracts with a gaming establishment. Any gaming or non-gaming vendor doing

business with a gaming establishment who has failed to submit an application for licensure or registration shall be prohibited from engaging in any future business with a gaming establishment; provided, however, that the commission may terminate any contract that has been entered into with an unlicensed or unregistered gaming or non-gaming vendor.

(k) Gaming licensees shall have a continuing duty to inform the commission of all vendor contracts.

(l) A license or registration issued under this section shall be issued for a term of 3 years. It shall be the responsibility of the gaming vendor or non-gaming vendor to ensure that the license is current.

(m) The commission shall establish fees for gaming vendor licenses and non-gaming vendor registrations which shall include costs incurred for conducting a background investigation into an applicant for the license.

(n) The commission shall monitor the conduct of all gaming vendors and other persons having a material involvement, directly or indirectly, with a gaming vendor to ensure that gaming vendor licenses are not issued to, or held by, and there is no direct or indirect material involvement with, a gaming vendor by unqualified, disqualified or unsuitable persons.

Section 32. (a) Each labor organization, union or affiliate seeking to represent employees who are employed at a gaming establishment shall register with the commission.

(b) Neither a labor organization, nor its officers who are not otherwise licensed or registered under this chapter, may hold any financial interest in a gaming establishment whose employees are represented by the organization.

Section 33. (a) No junkets may be organized or permitted and no person may act as a junket representative or junket enterprise except as authorized by the commission under this chapter.

(b) A junket representative employed by a gaming licensee or affiliate of a gaming licensee shall be licensed as a gaming employee including provisions for the issuance of a temporary license; provided, however, that the junket representative need not be a resident of the commonwealth. A person who holds a valid gaming employee license may act as a junket representative while employed by a gaming licensee or an affiliate. No gaming licensee shall employ or otherwise engage a junket representative who is not licensed under this chapter.

(c) The commission shall deny an application for a license under this section if the commission finds that an applicant is disqualified under section 16 or may be unsuitable for licensure under any of the criteria set forth in section 12.

(d) Each gaming licensee, junket representative or junket enterprise shall file a report with the bureau with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the gaming licensee, junket representative or enterprise.

(e) No junket enterprise or junket representative or person acting as a junket representative shall: (i) engage in efforts to collect upon checks that have been returned by banks without full and final payment; (ii) exercise approval authority with regard to the authorization or issuance of credit under this chapter; (iii) act on behalf of or under any arrangement with a gaming licensee or a gaming patron with regard to the redemption, consolidation or substitution of the gaming patron's checks awaiting deposit; (iv) individually receive or retain any fee from a patron for the privilege of participating in a junket; or (v) pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

Section 34. (a) Upon revocation or suspension of a gaming license or upon the failure or refusal to renew a gaming license the commission may appoint a conservator to temporarily manage and operate the business of the gaming licensee relating to the gaming establishment. Such conservator shall be a person of similar experience in the field of gaming management and, in the case of replacing a gaming licensee, shall have experience operating a gaming establishment of similar caliber in another jurisdiction, and shall be in good standing in all jurisdictions in which the conservator operates operate any gaming establishment. Upon appointment, a conservator shall agree to all licensing provisions of the former gaming licensee.

(b) A conservator shall, before assuming , managerial or operational duties, execute and file a bond for the faithful performance of such duties payable to the commission with such surety and in such form and amount as the commission shall approve.

(c) The commission shall require that the former or suspended gaming licensee purchase liability insurance, in an amount determined by the commission, to protect a conservator from liability for any acts or omissions of the conservator during the conservator's appointment which are reasonably related to, and within the scope of the conservator's duties.

(d) During the period of temporary management of the gaming establishment, the commission shall initiate proceedings under this chapter to award a new gaming license to a qualified applicant whose gaming establishment shall be located at the site of the preexisting gaming establishment.

(e) Applicants for a new gaming license shall be qualified for licensure under this chapter; provided, however, that the commission shall determine an appropriate level of investment by an applicant into the preexisting gaming establishment.

(f) Upon award of a new gaming license, the new gaming licensee shall pay the original licensing fee required under this chapter.

Section 35. (a) The bureau shall have the authority to issue orders requiring persons to cease any activity which violates this chapter, a regulation adopted hereunder or any law related to gaming in the commonwealth. The bureau may, in its order, require compliance with such terms and conditions as are reasonably necessary to effectuate the purposes of this chapter.

(b) If the bureau finds that a person is not in compliance with any order issued under this section, it shall assess a civil administrative penalty. The penalty may be assessed whether or not the violation was willful. In determining the amount of the civil penalty, the bureau shall consider: (i) the nature of the violation; (ii) the length of time the violation occurred; (iii) the risk to the public and to the integrity of gaming operations created by the conduct of the person; (iv) the seriousness of the conduct of the person; (v) any justification or excuse for such conduct by the person; (vi) the prior history of the particular person involved with respect to gaming activity; (vii) any corrective action taken by the person to prevent future misconduct; and (viii) and other relevant factors.

(c) In addition to collecting any civil penalties recoverable under this chapter or any other general or special law, the bureau may bring an action in the superior court to restrain, prevent or enjoin any conduct prohibited by this chapter or to compel action to comply immediately and fully with any order issued by the bureau. Except in cases of emergency where, in the opinion of the court, immediate abatement of the unlawful conduct is required to protect the public interest, the court may in its decree fix a reasonable time during which the person responsible for the

unlawful conduct may abate and correct the violation. The expense of the proceeding shall be recoverable from the subject of the proceeding.

(d) Upon a recommendation from the bureau, the commission shall issue orders to condition, suspend or revoke a license or permit issued under this chapter.

(e) The bureau shall issue an order to cease and desist any activity if the bureau finds that a licensee has engaged in or is about to engage in an act or practice which constitutes a violation of this chapter or laws of the commonwealth and may take such affirmative action to effectuate the order. If the bureau finds that the licensee is engaged in an act or practice that would cause irreparable harm to the security and integrity of the gaming establishment or the interests of the commonwealth in ensuring the security and integrity of gaming under this chapter, the bureau may issue a temporary suspension of the license.

(f) Any licensee who has been issued a temporary order of suspension by the bureau shall be entitled to a hearing before the commission on such suspension within 7 days that the order was issued. At the conclusion of the hearing, the commission may issue a final order to condition, suspend or revoke the license in question.

(g) A licensee shall have the right to an adjudicatory hearing on an order issued by the bureau under chapter 30A.

Section 36. (a) The bureau may assess a civil administrative penalty on a licensee or registrant who fails to comply with any provision of this chapter or any regulation or order adopted by the commission; provided, however, that such noncompliance occurred after the bureau had given such person written notice of such noncompliance and the time stated in the notice for coming

into compliance had elapsed; provided, however, that the bureau may assess such penalty without providing such written notice if such failure to comply: (i) was part of a pattern of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of error; (iii) resulted in a significant breach to the integrity of the gaming establishment or gaming laws of the commonwealth; and (iv) consisted of failure to promptly report to the commission any knowledge of evidence or circumstances that would cause a reasonable person to believe that a violation of this chapter had been committed. The civil administrative penalty shall be in addition to any other civil penalty that may be prescribed by law.

(b) For the purpose of determining whether such noncompliance was part of a pattern of noncompliance and not an isolated instance, the bureau shall consider without limitation the following: (i) whether the bureau had previously notified the person of such noncompliance on more than one occasion during the previous month or of any noncompliance with the same provision of a law, regulation, order, license or approval as the current noncompliance during the previous 6 month period; or (ii) whether the current and previous noncompliances, considered together, indicate a potential threat to the integrity of the gaming establishment and gaming in the commonwealth or an interference with the commission's ability to efficiently and effectively regulate gaming in the commonwealth and enforce any regulation, license or order. If a licensee or registrant who has received a notice of noncompliance fails to come into compliance within the time period stated in such notice, the civil administrative penalty may be assessed by the bureau upon such licensee or registrant from the date of receipt of such notice.

(c) Whenever the bureau seeks to assess a civil administrative penalty on any licensee or registrant, the bureau shall cause to be served upon such licensee or registrant, either by service,

in hand, or by certified mail, return receipt requested, a written notice of its intent to assess a civil administrative penalty which shall include a concise statement of the alleged act or omission for which such civil administrative penalty is sought to be assessed, each law, regulation, order, license or approval which has not been complied with as a result of such alleged act or omission, the amount which the bureau seeks to assess as a civil administrative penalty for each such alleged act or omission, a statement of such licensee’s or registrant's right to an adjudicatory hearing on the proposed assessment, the requirements such licensee or registrant must comply with to avoid being deemed to have waived the right to an adjudicatory hearing and the manner of payment thereof if such person elects to pay the penalty and waive an adjudicatory hearing. After written notice of noncompliance or intent to assess a civil administrative penalty has been given, each such day thereafter during which such noncompliance occurs or continues shall constitute a separate offense and shall be subject to a separate civil administrative penalty if reasonable efforts have not been made to promptly come into compliance.

(d) Whenever the bureau seeks to assess a civil administrative penalty on any licensee or registrant, such licensee or registrant shall have the right to an adjudicatory hearing under chapter 30A whose provisions shall apply except when they are inconsistent with the provisions of this chapter.

(e) Such licensee or registrant shall be deemed to have waived such right to an adjudicatory hearing unless, within 21 days of the date of the bureau's notice that it seeks to assess a civil administrative penalty, such licensee or registrant files with the bureau a written statement denying the occurrence of any of the acts or omissions alleged by the bureau in such notice, or

asserting that the money amount of the proposed civil administrative penalty is excessive. In any adjudicatory hearing authorized under chapter 30A, the bureau shall, by a preponderance of the evidence, prove the occurrence of each act or omission alleged by the bureau.

(f) If a licensee or registrant waives the right to an adjudicatory hearing, the proposed civil administrative penalty shall be final immediately upon such waiver. If a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, said civil administrative penalty shall be final upon the expiration of 30 days if no action for judicial review of such decision is commenced under chapter 30A.

(g) Any licensee or registrant who institutes proceedings for judicial review of the final assessment of a civil administrative penalty shall place the full amount of the final assessment in an interest-bearing escrow account in the custody of the clerk or magistrate of the reviewing court. The establishment of such an interest-bearing escrow account shall be a condition precedent to the jurisdiction of the reviewing court unless the party seeking judicial review demonstrates in a preliminary hearing held within 20 days of the filing of the complaint either the presence of a substantial question for review by the court or an inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the interest-bearing escrow account or may require, in lieu of such interest-bearing escrow account, the posting of a bond payable directly to the commonwealth in the amount of 125 per cent of the assessed penalty. If, after judicial review, in a case where the requirement for an escrow account has been waived, and in cases where a bond has been posted in lieu of such requirement, the court affirms, in whole or in part, the assessment of a civil administrative penalty the commission shall be paid the amount thereof together with interest at the rate provided in section 6C of chapter 231. If, after such

review in a case where an interest-bearing escrow account has been established, the court affirms the assessment of such penalty, in whole or in part, the commission shall be paid the amount thereof together with the accumulated interest in the interest-bearing escrow account. If the court sets aside the assessment of a civil administrative penalty in a case where the amount of such penalty has been deposited in an interest-bearing escrow account, the licensee or registrant on whom the civil administrative penalty was assessed shall be repaid the amount so set aside, together with the accumulated interest thereon.

(h) Each licensee or registrant who fails to pay a civil administrative penalty on time, and each person who issues a bond under this section and who fails to pay to the commission on time the amount required hereunder, shall be liable to the commonwealth for up to 3 times the amount of the civil administrative penalty, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection thereof. The rate of interest shall be the rate provided in section 6C of chapter 231. The bureau shall be authorized to require that the amount of a civil administrative penalty imposed under this section exceed any economic benefit realized by a person for noncompliance.

Section 37. (a) Whoever conducts or operates, or permits to be conducted or operated, any game or gaming device in violation of this chapter or the regulations adopted under this chapter shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years, or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(b) Whoever employs, or continues to employ, an individual in a position, the duties of which require a license or registration under this chapter, who is not so licensed or registered, shall be punished by imprisonment in the house of correction for not more than 6 months or by a fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(c) Whoever works or is employed in a position, the duties of which require licensing or registration under this chapter, without the required license or registration, shall be punished by imprisonment in the house of correction for not more than 6 months or a fine not to exceed $10,000, or both.

(d) A gaming licensee who, without the permission of the commission: (i) places a game or gaming device into play or displays a game or gaming device in a gaming establishment; or (ii) receives, directly or indirectly, any compensation or reward or any percentage or share of the revenue for keeping, running or carrying on a game, or owning the real property upon, or the location within which any game occurs, shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(e) Whoever conducts or operates any game or gaming device after the person's gaming license has expired and prior to the actual renewal of the gaming license shall be punished by imprisonment in the house of correction for not more than 1½ years or a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(f) A gaming licensee who knowingly fails to exclude from the licensee's gaming establishment any person placed by the commission on the list of excluded persons shall be punished by a fine not to exceed $5,000 or by imprisonment in the house of correction for not more than 1 year, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(g) Whoever willfully: (i) fails to report, pay or truthfully account for and pay over a license fee or tax imposed by this chapter or by the regulations adopted under this chapter; or (ii) evades or defeats, or attempts to evade or defeat, a license fee or tax or payment of a license fee or tax shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2½ years or a fine not to exceed $100,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $5,000,000.

Section 38. Whoever willfully resists, prevents, impedes, interferes with or makes any false, fictitious or fraudulent statement or representation to the bureau, commission or division or to agents or employees of the bureau, commission or division in the lawful performance of the agent's or employee's duties under this chapter shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2½ years or by a fine not to exceed $25,000, or both.

Section 39. (a) Whoever, during a game in a gaming establishment, knowingly and by any trick or sleight of hand performance or by a fraud or fraudulent scheme, cards, dice or other gaming device, for himself, for another or for a representative of either: (i) wins, or attempts to win, money or property; or (ii) reduces, or attempts to reduce, a losing wager in a gaming establishment shall be guilty of cheating and swindling.

(b) Whoever knowingly uses a cheating and swindling device or game in a gaming establishment shall be guilty of cheating and swindling.

(c) Whoever commits the offense of cheating and swindling shall be punished as follows:

(i) if the value of the money, property or wager cheated and swindled is $75,000 or more, by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2½ years or by a fine not to exceed $1,000,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $10,000,000;

(ii) if the value of the money, property or wager cheated and swindled is $10,000 or more but less than $75,000, by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2½ years or by a fine not to exceed $500,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $5,000,000;

(iii) if the value of the money, property or wager cheated and swindled is $1,000 or more but less than $10,000, by imprisonment in the state prison for not more than 3 years or in the house of correction for not more than 2½ years or by a fine not to exceed $100,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $1,000,000;

(iv) if nothing of value was obtained in violation of this subsection or if the value of the money, property or wager cheated and swindled is less than $1,000, by imprisonment in the house of correction for not more than 2½ years or by a fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(d) Each episode or transaction of swindling and cheating may be the subject of a separate prosecution and conviction. In the discretion of the commonwealth, multiple episodes

or transactions of swindling and cheating committed as part of a single scheme or course of conduct may be treated as a single offense and the amounts involved in acts of swindling and cheating committed according to a scheme or course of conduct, whether by the same person or several persons, may be aggregated in determining the value of money, property or wager involved in the offense.

(e) A gaming licensee, or an employee of a gaming licensee, who, in a gaming establishment, knowingly: (i) conducts or operates any game using a cheating and swindling device or game; (ii) displays for play a cheating and swindling game; or (iii) permits to be conducted, operated or displayed, any cheating and swindling device or game shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years, or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

Section 40. (a) Whoever possesses a cheating and swindling device or game, with the intent to defraud, cheat or steal, shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(b) Possession of a cheating and swindling device or game within a gaming establishment shall constitute prima facie evidence of an intent to defraud, cheat or steal, except possession by a gaming licensee or an employee of a gaming licensee, acting lawfully in furtherance of such person's employment within the gaming establishment, shall be punished by imprisonment in the house of correction for not more than 2½ years or a fine not to exceed $10,000, or both.

Section 41. Whoever manufactures, distributes, sells or services a gaming device, in violation of this chapter or regulations adopted under this chapter and for the purpose of defrauding, cheating or stealing from a person playing, operating or conducting a game in a gaming establishment, shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $150,000.

Section 42. Any device, game or gaming device possessed, used, manufactured, distributed, sold or serviced in violation of this chapter shall be subject to seizure and forfeiture by the division or bureau. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j), inclusive, of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of said chapter 94C, the commission shall be considered a police department, entitled to a police department's distribution of forfeiture proceedings.

Section 43. (a) Whoever, being under 21 years old, plays, places wagers at or collects winnings from, whether personally or through an agent, a game in a gaming establishment shall be punished by imprisonment in the house of correction for not more than 6 months or a fine not to exceed $1,000, or both.

(b) Whoever, being a gaming licensee or an employee of a gaming licensee, who knowingly allows a person under the age of 21 to play, place wagers at, or collect winnings from a game in a gaming establishment, whether personally or through an agent, shall be punished, for a first offense, by imprisonment in the house of correction for not more than 1 year or a fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $500,000 and, for a second or subsequent offense, by imprisonment in the house of

correction for not more than 2 years or a fine not to exceed $50,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $1,000,000.

Section 44. All penalties collected under this chapter shall be deposited into the Gaming Revenue Fund established under this chapter**.**

Section 45. (a) The commission, by regulation, shall provide for the establishment of a list of excluded persons who are to be excluded from a gaming establishment. In determining the list of excluded persons, the commission may consider, but shall not be limited to: (i) whether a person has been convicted of a criminal offense under the laws of any state or the United States that is punishable by more than 6 months in a state prison, a house of correction or any comparable incarceration, a crime of moral turpitude or a violation of the gaming laws of any state; (ii) whether a person has violated or conspired to violate this chapter relating to: (A)failure to disclose an interest in a gaming establishment for which the person is required to obtain a license; or (B) willful evasion of fees or taxes; (iii) whether a person has a notorious or unsavory reputation which would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive elements; and (iv) the potential of injurious threat to the interests of the commonwealth in the gaming establishment.

(b) No person shall be placed on the list of excluded persons due to race, color, religion, national origin, ancestry, sexual orientation, disability or sex.

(c) The commission may revoke, limit, condition, suspend or fine a gaming establishment if such establishment knowingly or recklessly fails to exclude or eject from its premises any person placed by the commission on the list of excluded persons.

(d) Whenever the commission places a name on the list of excluded persons, the commission shall serve written notice upon that person by personal service, registered or certified mail return receipt requested to the last ascertainable address, or by publication in a daily newspaper of general circulation for 1 week.

(e)(1) Within 30 days of receipt of service by mail or 60 days after the last publication under subsection (d), a person placed on the list of excluded persons may request an adjudicatory hearing before the commission under chapter 30A and show cause as to why the person should be removed from the list of excluded persons. Failure to demand a hearing within the time allotted in this section shall preclude the person from having an administrative hearing, but in no way affect the person's right to petition for judicial review.

(2) Upon receipt of a demand for hearing, the commission shall set a time and place for the hearing. This hearing shall be held not later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by agreement of the commission and the person demanding the hearing.

(3) If, upon completion of the hearing, the commission determines that the person was wrongfully placed on the list of excluded persons, the commission shall remove the person's name from the list of excluded persons and notify all gaming licensees. A person aggrieved by a final decision of the commission in an adjudicatory proceeding under this section may petition for judicial review under section 14 of chapter 30A.

(f) The commission shall establish a list of self-excluded persons from gaming establishments. A person may request such person's name to be placed on the list of self-excluded persons by filing a statement with the commission acknowledging that the person is a

problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. The commission shall adopt further regulations, under section 5, for the self-excluded persons list including procedures for placement, removal and transmittal of such list to gaming establishments.

(g) Gaming establishments shall not market to persons on any excluded persons list and shall deny access to complimentaries, check cashing privileges, club programs and other similar benefits to persons on the self-excluded persons list.

(h) Notwithstanding any other law to the contrary, the self-excluded persons list shall not be open to public inspection. Nothing in this section, however, shall prohibit a gaming establishment from disclosing the identity of persons on the self-excluded persons list under this section to affiliated gaming establishments in this commonwealth or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.

(*i*) As used in this subsection the following words shall, unless the context clearly requires otherwise have the following meanings:

(i) "Problem gambler", a person who chronically or habitually gambles to the extent that: (1) such gambling substantially interferes with the person's social or economic functioning; or (2) the person has lost the power of self control over that person's gambling.

(ii) "Immediate family", the spouse, parent, child, brother or sister of an individual.

An immediate family member or guardian may petition, in writing, a district court for an order of exclusion from gaming establishments applicable to a person whom the petitioner has reason to believe is a problem gambler. Upon receipt of a petition for an order of exclusion of a person and any sworn statements the court may request from the petitioner, the court shall immediately schedule a hearing on the petition and shall cause a summons and a copy of the petition to be served upon the person as provided by section 25 of chapter 276. The person may be represented by legal counsel and may present independent expert or other testimony. The court shall order examination by a qualified psychologist. If, after a hearing, the court based upon competent testimony finds that said person is a problem gambler and there is a likelihood of serious harm as a result of the person's gambling, the court may order that such person be prohibited from gaming in gaming establishments. The court shall communicate this order to the commission, which shall place the person's name on the list of excluded persons.

(j) A person who is prohibited from gaming in a gaming establishment under this section shall not collect any winnings or recover losses arising as a result of prohibited gaming winnings obtained by a person who is prohibited from gaming in a gaming establishment shall be forfeited to the commission and deposited into the Gaming Revenue Fund.

(k) The commission shall pursue an interstate compact for the purposes of sharing information

regarding the excluded persons list.

Section 46. No applicant for a gaming license, nor any holding, intermediary or subsidiary company thereof, nor any officer, director, key gaming employee or principal employee of an applicant for or holder of a gaming license or of any holding, intermediary or subsidiary company thereof nor any person or agent on behalf of any such applicant, holder, company or

person, shall directly or indirectly, pay or contribute any money or thing of value to any candidate for nomination or election to any public office in the commonwealth or to any group, political party, committee or association organized in support of any such candidate or political party; except that the provisions of this section shall not be construed to prohibit any individual who is a candidate for public office from contributing to the candidate's own campaign.

Section 47. All political contributions or contributions in kind made by an applicant for a gaming license to a municipality or a municipal employee, as defined in section 1 of chapter 268A, of the host community of the applicant's proposed gaming establishment shall be disclosed, by the applicant, to the commission and the city or town clerk of the host community. Such disclosure shall be made by the applicant bi-annually, on or before July 15 for the period covering January 1 through June 30 of that year and on or before January 15 for the period covering July 1 through December 31 of the preceding year. The office of campaign and political finance shall promulgate regulations to provide for timely and expeditious public reporting, which shall include electronic means or public posting in a city or town hall and post office, by city and town clerks of the contribution disclosures they receive from applicants.

Section 48. A gaming licensee shall be subject to chapters 62 through 62E, inclusive, and chapters 63 through 63B, inclusive.

Section 49. (a) A gaming establishment, including any business located within a gaming establishment, shall not be a certified project within the meaning of section 3F of chapter 23A. Gaming establishments shall not be designated as economic opportunity areas within the meaning of section 3E of chapter 23A. Gaming establishments shall not be eligible for tax increment financing under section 59 of chapter 40 or special tax assessments set forth in section

3E of chapter 23A. Gaming establishments shall not be classified and taxed as recreational land under chapter 61B. Gaming establishments shall not be designated as a development district within the meaning of chapter 40Q.

(b) Unless otherwise provided, a gaming establishment or a business located or to be located within a gaming establishment shall not be eligible for the following credits or deductions listed in chapter 62 or chapter 63: the investment tax credit under section 31A of chapter 63, the employment credit under section 31C of said chapter 63, the van pool credit under section 31E of said chapter 63, the deduction for expenditures for industrial waste treatment or air pollution control under section 38D of said chapter 63, the deduction for compensation paid to an eligible business facility's employees domiciled in a section of substantial poverty under section 38F of said chapter 63, the film tax credit under subsection (*l*) of section 6 of chapter 62 and section 38X of said chapter 63, the alternative energy sources deduction under section 38H of said chapter 63, the research expense credit under section 38M of said chapter 63, the economic opportunity area credit under subsection (g) of section 6 of said chapter 62, and section 38N of said chapter 63, the abandoned building deduction under subparagraph (10) of subsection (a) of Part B of section 3 of said chapter 62 and section 38O of said chapter 63, the harbor maintenance tax credit under section 38P of said chapter 63, the brownfields credit under subsection (j) of section 6 of said chapter 62 and section 38Q of said chapter 63, the historic rehabilitation tax credit under section 6J of said chapter 62 and section 38R of said chapter 63 and the automatic sprinkler system depreciation deduction under section 38S of said chapter.

Section 50. Any liability to the commonwealth under this chapter shall constitute a debt to the commonwealth. Once a statement naming a gaming licensee is recorded, registered or filed, any

such debt shall constitute a lien on all commercial property owned by a gaming licensee in the commonwealth and shall have priority over an encumbrance recorded, registered or filed with respect to any site.

Section 51. (a) Prior to disbursement of cash or a prize in excess of $600, a gaming licensee shall review information made available by the IV-D agency, as set forth in chapter 119A and by the department of revenue to ascertain whether the winner of the cash or prize owes past-due child support to the commonwealth or to an individual to whom the IV-D agency is providing services and to ascertain whether the winner of the cash or prize owes any past-due tax liability to the commonwealth.

(b) If the winner of the cash or prize owes past-due child support or a past-due tax liability, the gaming licensee shall notify the IV-D agency or the commonwealth, respectively, of the winner's name, address and social security number. Subsequent to statutory state and federal tax withholding, the gaming licensee shall first disburse to the IV-D agency the full amount of the cash or prize or such portion of the cash or prize that satisfies the winner's past-due child support obligation.

(c) If funds remain available after the disbursement to the IV-D agency or if no such obligation to the IV-D agency is owed, the gaming licensee shall disburse to the department of revenue the full amount of the cash or prize or such portion of the cash prize that satisfies the winner's past-due tax liability. The licensee shall disburse to the holder only that portion of the prize, if any, remaining after the holder's past-due child support obligation and the holder's past-due tax liability have been satisfied.

Section 52. Gaming licensees shall, on a monthly basis, transmit to the department of transitional assistance and to the IV-D agency, as set forth in chapter 119A, a list of all persons who were awarded cash winning or a prize in excess of $600 in the prior month. The information shall be provided in a format which is compatible with the automated data processing systems of the department and the IV-D agency to ensure the immediate identification of persons who may be receiving public assistance benefits. The information provided shall include the name, address and social security number of the person who was awarded the cash or prize valued in excess of $600.

Section 53. Unclaimed cash and prizes shall be retained by the gaming licensee for the person entitled to the cash or prize for 1 year after the game in which the cash or prize was won. If no claim is made for the cash or prize within 1 year, the cash or equivalent cash value of the prize shall be deposited in the Gaming Revenue Fund established in section 59.

Section 54. If the person entitled to cash or a prize is under the age of 21 years, the cash or prize shall be remitted to the commission and deposited into the Gaming Revenue Fund established in section 59.

Section 55. (a) A category 1 licensee shall pay a daily tax of 25 per cent on gross gaming revenues.

(b) A category 2 licensee shall pay a daily tax of 40 per cent on gross gaming revenue.

(c) In addition to the tax imposed under subsection (b), a category 2 licensee shall pay a daily assessment of 9 per cent of their gross gaming revenue to the Massachusetts race horse development fund established in section 60**.**

(d) Taxes imposed under this section shall be remitted to the commission by a gaming licensee the day following each day of wagering.

Section 56. (a) In addition to any other tax or fee imposed by this chapter, there shall be imposed an annual license fee of $600 for each slot machine approved by the commission for use by a gaming licensee at a gaming establishment; provided, however, that not sooner than 5 years after award of an original gaming license, the commission may annually adjust the fee for inflation. The fee shall be imposed as of July 1 of each year for all approved slot machines on that date and shall be assessed on a pro rata basis for any slot machine approved for use thereafter.

(b) The commission shall establish fees for any investigation into a violation of this chapter or regulation promulgated thereunder by a gaming licensee to be paid by the gaming licensee, including, but not limited to, billable hours by commission staff involved in the investigation and the costs of services, equipment or other expenses that are incurred by the commission during the investigation.

(c) Any remaining costs of the commission necessary to maintain regulatory control over gaming establishments that are not covered by: (i) the fees set forth in subsections (a) and (b); (ii) any other fees assessed under this chapter; or (iii) any other designated source of funding, shall be assessed annually on gaming licensees under this chapter in proportion to the number of gaming positions at each gaming establishment. Each gaming licensee shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the commission.

(d) If the fees collected in subsections (a) and (b) exceed the cost required to maintain regulatory control, the surplus funds shall be credited in proportional shares against each gaming licensee’s next assessment.

(e) In addition to the fees collected under this section and any additional costs of the commission, the commission shall assess an annual fee of not less than $5,000,000 in proportional shares against each gaming licensee in proportion to the number of gaming positions at each gaming establishment for the costs of service and public health programs dedicated to addressing problems associated with compulsive gambling. Such assessed fees shall be deposited into the Public Health Trust Fund established in section 58.

(f) All fees and assessments collected under this section, except those collected under subsection (e), shall be deposited into the Gaming Control Fund established in section 57.

Section 57. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Gaming Control Fund. The commission shall be the trustee of the fund and shall expend monies to finance operational activities of the commission. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, the proceeds of the assessments levied under section 56, application fees for licenses issued under this chapter and such additional funds as are subject to the direction and control of the commission. All available monies in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year. Any funds unexpended in any fiscal year for the purposes of which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount. The commission shall record all expenditures made by subsidiary on the Massachusetts management and accounting reporting system, so-called, according to regulations established by the state comptroller.

(b) The commission shall, for the purposes of compliance with state finance law, operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the provisions applicable to agencies under the control of the governor including, but not limited to, chapters 7, 7A, 10 and 29; provided, however, that the comptroller may identify any additional instructions or actions necessary for the commission to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. Unless otherwise exempted by law or the applicable central service agency, the commission shall participate in any other available commonwealth central services including, but not limited, to the state payroll system under section 31 of said chapter 29, and may purchase other goods and services provided by state agencies in accordance with comptroller provisions. The comptroller may chargeback the commission for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section. The commission shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of chapter 29.

The commission shall annually submit a finance plan to the secretary of administration and finance, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on economic development and emerging technologies.

Section 58. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Public Health Trust Fund. The public health trust fund shall consist of fees assessed under section 56 and all other monies credited or transferred to the fund from any other source under law. The secretary of health and human services shall be the trustee of the public health trust fund and may only expend monies in the fund, without further appropriation, to assist social service and public health programs dedicated to addressing problems associated

with compulsive gambling, including, but not limited to, gambling prevention and addiction services, educational campaigns to mitigate the potential addictive nature of gambling and any studies and evaluations necessary, including the annual research agenda under section 71, to ensure the proper and most effective strategies.

Section 59. There shall be established and set up on the books of the commonwealth a Gaming Revenue Fund, hereinafter the fund, which shall receive revenues collected from the tax on gross gaming revenue received from gaming licensees. The commission shall be the trustee of the fund and shall transfer monies in the fund as follows:

(1) 100 per cent of the revenue received from a category 2 licensee shall be transferred to the Gaming Local Aid Fund; and

(2) 100 per cent of the revenue received from a category 1 licensee shall be transferred as follows:

(a) 2 per cent of revenues to the Massachusetts cultural council of which one-quarter of the revenues received shall be dedicated to the organization support program of the Massachusetts cultural council and three-quarters of revenues shall be dedicated to support not-for-profit or municipally-owned performing arts centers impacted as a result of the operation of gaming facilities; provided, however, that funds dedicated to such performing arts centers shall be to subsidize fees paid to touring shows or artists; provided further, that funding shall be appropriated through a competitive grant process to be developed and administered by the Massachusetts cultural council;

(b) 1/2 per cent to the Massachusetts Tourism Fund to fund tourist promotion agencies under clause (c) of section 35J of chapter 10.

(c) 6.5 per cent to the Community Mitigation Fund established in section 61;

(d) 2 per cent to the Local Capital Projects Fund, established in section 2EEEE of chapter 29**;**

(e) 25 per cent to the Gaming Local Aid Fund, established in section 63;

(f) 10 per cent to the Commonwealth Stabilization Fund established in section 2H of chapter 29; provided, however, that in any fiscal year in which the amount appropriated in item 7061-0008 of the general appropriation act, paid from the General Fund, or the amount of unrestricted general government aid paid from the General Fund, including lottery aid distribution to cities and towns as paid from the General Fund under clause (c) of the second paragraph of section 35 of said chapter 10 and the amount of additional funds distributed to cities and towns as additional assistance paid from the General Fund, is less than that of the previous fiscal year, up to 1/2 of the funds otherwise directed to the Commonwealth Stabilization Fund under this section, up to an amount equal to the deficiency between said appropriations for the current and previous fiscal years, shall be transferred to the Gaming Local Aid Fund in addition to the 30 per cent under clause (e);

(g) 14 per cent to the Education Fund, established in section 64;

(h) 10 per cent shall be transferred to the Economic Development Fund, established in section 2DDDD of chapter 29;

(i) 10 per cent shall be used for debt reduction through a program of debt defeasance and accelerated debt payments; provided, however, that this program shall be developed jointly by the state treasurer and the secretary of administration and finance and shall be implemented in compliance with state finance law; provided further, that this program shall prioritize the

reduction of risk in the commonwealth's debt portfolio; and provided further, that the state secretary and state treasurer shall provide a written description of the program to the finance advisory board established in section 97 of chapter 6 for the board's review and comment before the program is implemented and shall file a copy of that description with the house and senate committees on ways and means and the house and senate committees on bonding, capital expenditures and state assets when it is submitted to the finance advisory board;

(j) 15 per cent shall be transferred to the Transportation Infrastructure and Development Fund, established in section 62; and

(k) 5 per cent to the Public Health Trust Fund.

Section 60. (a) There shall be established and set up on the books of the commonwealth a Race Horse Development Fund to be administered by the commission. The fund shall consist of monies deposited under subsection (c) of section 55. The commission shall make distributions from the Race Horse Development Fund to each licensee under chapter 128A.

(b) Funds received from subsection (a) shall be allocated by the commission as follows:

(i) 80 per cent shall be deposited weekly into a separate, interest-bearing purse account to be established by and for the benefit of the horsemen; provided, however, that the earned interest on the account shall be credited to the purse account; and provided further, that licensees shall combine these funds with revenues from existing purse agreements to fund purses for live races consistent with those agreements with the advice and consent of the horsemen;

(ii) for a thoroughbred track, 8 per cent shall be deposited on a monthly basis into the Massachusetts Thoroughbred Breeding Program authorized by the commission in section 2 of chapter 128;

(iii) for a harness track, 8 per cent shall be deposited on a monthly basis into the Massachusetts Standardbred Breeding Program authorized by the commission in section 2 of chapter 128 and an additional 8 per cent shall be deposited on a monthly basis into a Standardbred Breeder Development Program authorized by the commission; and

(iv) 4 per cent shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the racetrack at which the category 2 licensee operates for the benefit of the organization's members, their families, employees and others under the rule and eligibility requirements of the organization, as approved by the commission; provided, however, that this amount shall be deposited within 5 business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice; and provided further, that of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the thoroughbred jockeys or standardbred drivers organization at the racetrack at which the licensed racing entity operates for health insurance, life insurance or other benefits to active and disabled thoroughbred jockeys or standardbred drivers under the rules and eligibility requirements of that organization.

Section 61. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Community Mitigation Fund. The fund shall consist of monies

transferred under section 59 and all other monies credited or transferred to the fund from any other fund or source.

(b) The commission shall administer the fund and, without further appropriation, shall expend monies in the fund to assist the host community and surrounding communities in offsetting costs related to the construction and operation of a gaming establishment including, but not limited to, communities and water and sewer districts in the vicinity of a gaming establishment, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire and emergency services.

(c) Parties requesting appropriations from the fund shall submit a written request for funding to the commission before February 1 of each year. The commission may hold a public hearing in the region of a gaming establishment to provide parties with the opportunity to provide further information about their request for funds and shall distribute funds to requesting parties based on demonstrated need.

Section 62. There shall be established and set up on the books of the commonwealth a fund to be known as the Transportation Infrastructure and Development Fund. The fund shall consist of monies transferred from the Gaming Revenue Fund and all other monies credited or transferred to the fund from any other fund or source and proceeds from the investment of such funds. The secretary of transportation shall be the trustee of this fund, provided that no funds shall be expended until the secretary of administration and finance has provided written approval annually of a proposed spending plan. Any expenditures from this fund shall be solely for the

purpose of transportation and related infrastructure projects, including but not limited to transit expansion and maintenance.

Section 63. There shall be established and set up on the books of the commonwealth a fund to be known as the Gaming Local Aid Fund. The fund shall consist of monies transferred under section 59 and all monies credited or transferred to the fund from any other fund or source.

Section 64. There shall be established and set up on the books of the commonwealth a fund to be known as the Education Fund. The fund shall be credited any monies transferred under section 59 and all monies credited to or transferred to the fund from any other fund or source. Expenditures from said fund for K-12 education shall be used to supplement, and not offset, any reduction in item 7061-0008 of the general appropriation act from the previous fiscal year's general appropriation act.

Section 65. The commission shall audit as often as the commission determines necessary, but not less than annually, the accounts, programs, activities, and functions of all gaming licensees. To conduct the audit, authorized officers and employees of the commission shall have access to such accounts at reasonable times and the commission may require the production of books, documents, vouchers and other records relating to any matter within the scope of the audit, except tax returns. The superior court shall have jurisdiction to enforce the production of records that the commission requires to be produced under this section and the court shall order the production of all such records within the scope of any such audit. All audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. In any audit report of the accounts, funds, programs, activities and functions of a gaming licensee issued by the commission, containing adverse or critical audit

results, the commission may require a response, in writing, to the audit results. The response shall be forwarded to the commission within 15 days of notification by the commission.

On or before April 1 of each year, the commission shall submit a report to the clerks of the house of representatives and the senate who shall forward the report to the house and senate committees on ways and means which shall include, but not be limited to: (i) the number of audits performed under this section; (ii) a summary of findings under the audits; and (iii) the cost of each audit.

Section 66. Unless the commission otherwise determines it to be in the best fiscal interests of the commonwealth, the commission shall utilize the services of a independent testing laboratory that has obtained a license as a gaming vendor to perform the testing of slot machines and other gaming equipment, and may also utilize applicable data from any such independent testing laboratory, or from a governmental agency of a state other than the Massachusetts, authorized to regulate slot machines and other gaming equipment.

Section 67. The commission shall continue to evaluate the status of Indian tribes in the commonwealth, including, without limitation, gaining federal recognition or taking land into trust for tribal economic development. The commission shall evaluate and make a recommendation to the governor and the chairs of the joint committee on economic development and emerging technologies as to whether it would be in the best interest of the commonwealth to enter into any negotiations with said tribes for the purposes of establishing Class III gaming on tribal land.

Section 68. (a) There shall be a gaming policy advisory committee to consist of the governor or the governor's designee, who shall serve as chair; the commission chair; the senate president or

the president's designee; the speaker of the house of representatives or the speaker's designee; the commissioner of public health or the commissioner's designee; and 8 persons to be appointed by the governor, 3 of whom shall be representatives of gaming licensees, 1 of whom shall be a representative of a federally recognized Indian tribe in the commonwealth, 1 of whom shall be a representative of organized labor and 3 of whom shall be appointed from the vicinity of each gaming establishment, as defined by host community and surrounding community, upon determination of the licensee and site location by the commission. The committee shall designate subcommittees to examine community mitigation, compulsive gambling and gaming impacts on cultural and tourism. Members of the committee shall serve for 2 year terms. The committee shall meet at least once annually for the purpose of discussing matters of gaming policy. The recommendations of the committee concerning gaming policy made under this section are advisory and shall not be binding on the commission and board.

(b) There shall be a subcommittee on community mitigation under the gaming policy advisory committee consisting of 7 members: 1 of whom shall be appointed from the host community in region 1; 1 of whom shall be appointed from the host community in region 2; 1 of whom shall be appointed from the host community in region 3; 1 of whom shall be a representative from the department of revenue's division of local services; 1 of whom shall be a representative of the commission; 1 of whom shall be appointed by the governor and have professional experience in community mitigation related to gaming; and 1 of whom shall be a representative from the Massachusetts municipal association. The subcommittee shall develop recommendations to be considered by the commission to address issues of community mitigation as a result of the development of gaming establishments in the commonwealth, including, but not limited to: how funds may be expended from the Community Mitigation Fund, the impact of

gaming establishments on the host community as well as surrounding communities including, but not limited to, the impact on local resources as a result of new housing construction and potential necessary changes to affordable housing laws, increased education costs and curriculum changes due to population changes in the region, development and maintenance of infrastructure related to increased population and utilization in the region and public safety impacts resulting from the facility and how to address that impact. The subcommittee shall receive input from local community mitigation advisory committees. The subcommittee shall review annually the expenditure of funds from the Community Mitigation Fund and make recommendations to the commission relative to appropriate and necessary use of community mitigation funds. The commission may promulgate such regulations as advised by the subcommittee.

(c) There shall be a subcommittee on addiction services under the gaming policy advisory committee consisting of 5 members: 1 of whom shall be a representative from the department of public health's bureau of substance abuse services; 1 of whom shall be a representative from the Massachusetts Council on Compulsive Gambling, Inc.; 1 of whom shall be a representative of the commission; and 2 of whom shall be appointed by the governor with professional experience in the area of gambling addictions. The subcommittee shall develop recommendations for regulations to be considered by the commission in addressing issues related to addiction services as a result of the development of gaming establishments in the commonwealth, including by not limited to, prevention and intervention strategies.

(d) There shall be a subcommittee on public safety under the gaming policy advisory committee consisting of 7 members: 1 of whom shall be a member of the commission; 1 of whom shall be the secretary of the executive office of public safety or the secretary's designee; 1 of whom shall be the attorney general or the attorney general's designee; 1 of whom shall be a

representative from the Massachusetts District Attorneys Association; 1 of whom shall be the colonel of the state police or the colonel's designee; 1 of whom shall be a representative from the Massachusetts Chiefs of Police Association; and 1 of whom shall be a representative of a public safety labor union. The subcommittee shall develop recommendations for regulations to be considered by the commission to address public safety issues as a result of the development of gaming establishments in the commonwealth, including but not limited to, how to mitigate the impact of gaming establishments on crimes committed in the commonwealth. The subcommittee shall also study the impact of gaming establishments on all aspects of public safety in the commonwealth.

(e) Each region, as defined in section 19, may establish a local community mitigation advisory committee, which shall include not fewer than 6 members: 1 of whom shall be appointed by each of the host and surrounding communities; 1 of whom shall be appointed by each regional planning agency to which at least 1 of the host or surrounding communities belongs; and 4 of whom shall be appointed by the commission, of whom at least 1 shall represent a chamber of commerce in the region, 1 shall represent a regional economic development organization in the region, and 2 shall represent human service providers in the region. Each local committee shall annually elect a chair and such other officers as it deems necessary to carry out its duties.

Each local community mitigation advisory committee may provide information and develop recommendations for the subcommittee on community mitigation on any issues related to the gaming establishment located in its region including, but not limited to: (i) issues of community mitigation; (ii) how funds may be expended from the Community Mitigation Fund; and (iii) the impact of the gaming establishments on the host and surrounding communities.

Additionally, each local community mitigation advisory committee may present information to the commission consistent with the rules of the commission on any issues related to the gaming establishment located in its region.

Section 69. The commission shall report monthly to the governor, the attorney general, the senate and house committees on ways and means, the chairs of the joint committee on revenue and the chairs of the joint committee on economic development and emerging technologies the total gaming revenues, prize disbursements and other expenses for the preceding month and shall make an annual report to the same recipients which shall include a full and complete statement of gaming revenues, prize disbursements and other expenses, including such recommendations as the commission considers necessary or advisable. The commission shall report immediately to the governor, the attorney general, the senate and house committees on ways and means, the senate and house chairs of the joint committee on revenue and the senate and house chairs of the joint committee on economic development and emerging technologies any matter which requires immediate changes in the laws of the commonwealth in order to prevent abuses or evasions of the laws, rules or regulations related to gaming or to rectify undesirable conditions in connection with the administration or operation of gaming in the commonwealth.

Section 70. The commission shall annually submit a complete and detailed report of the commission's activities, including a review of the implementation and enforcement of this chapter and the governance structure established in this chapter, within 90 days after the end of the fiscal year to the governor, the attorney general, the treasurer and receiver general, the clerk of the house of representatives, the clerk of the senate, the chairs of the joint committee on economic development and emerging technologies and the chairs of the house and senate committees on ways and means.

Section 71. The Massachusetts gaming commission, with the advice of the gaming policy advisory committee, shall develop an annual research agenda in order to understand the social and economic effects of expanding gaming in the commonwealth and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling. The secretary of health and human services, with the advice and consent of the commission may expend funds from the Public Health Trust Fund, established in section 58, to implement the objectives of the research agenda which shall include, but not be limited to, the following:

(1) a baseline study of the existing occurrence of problem gambling in the commonwealth; provided, however, that the study shall examine and describe the existing levels of problem gambling and the existing programs available that prevent and address the harmful consequences of problem gambling; provided further, that the commission shall contract with scientists and physicians to examine the current research as to the causes for problem gambling and the health effects of problem gambling and the treatment methods currently available in the commonwealth; provided further, that the commission shall report on the findings of the baseline study and provide recommendations to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on mental health and substance abuse and the joint committee on public health relative to methods to supplement or improve problem gambling prevention and treatment services;

(2) comprehensive legal and factual studies of the social and economic impacts of gambling in the commonwealth on: (a) state, local and Indian tribal governments; and (b) communities and social institutions generally, including individuals, families and businesses

within such communities and institutions; provided, however, that the matters to be examined in such studies shall include, but not be limited to:

(i) a review of existing federal, state, local and Indian tribal government policies and practices with respect to the legalization or prohibition of gambling, including a review of the costs of such policies and practices;

(ii) an assessment of the relationship between gambling and levels of crime and of existing enforcement and regulatory practices intended to address any such relationship;

(iii) an assessment of pathological or problem gambling, including its impact on individuals, families, businesses, social institutions and the economy;

(iv) an assessment of the impact of gambling on individuals, families, businesses, social institutions and the economy generally, including the role of advertising in promoting gambling and the impact of gambling on depressed economic areas;

(v) an assessment of the extent to which gaming has provided revenues to other state, local and Indian tribal governments;

(vi) an assessment of the costs of added infrastructure, police force, increased unemployment, increased health care and dependency on public assistance; and

(vii) the costs of implementing chapter 23K of the General Laws; and

(3) individual studies conducted by academic institutions in the commonwealth and individual researchers located in the commonwealth to study topics which shall include, but not be limited to: (i) reward and aversion, neuroimaging and neuroscience in humans, addiction phenotype genotype research, gambling-based experimental psychology and mathematical modeling of reward-based decision-making; (ii) the sociology and psychology of gambling behavior, gambling technology and marketing; and (iii) the epidemiology and etiology of

gambling and problem gambling in the general population; provided, however, that when contracting with researchers to study such issues, the commission shall encourage the collaboration among researchers in the commonwealth and other states and jurisdictions.

The commission and the committee shall annually make scientifically-based recommendations which reflect the results of this research to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on mental health and substance abuse and the joint committee on public health. The commission shall consider any such recommendations, research and findings in all decisions related to enhancing responsible gambling and mitigating problem gambling.

SECTION 17. Chapter 23K of the General Laws is hereby amended by striking out section 7, as appearing in section 12, and inserting in place thereof the following section:-

Section 7. The commission shall administer and enforce any general and special law related to pari-mutuel wagering and simulcasting. The commission shall serve as a host racing commission and an off-track betting commission for purposes of 15 U.S.C. 30001, et seq.

SECTION 18. Chapter 29 of the General Laws is hereby amended by inserting after section 2BBBB the following 3 sections:

Section 2CCCC. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Local Aid Stabilization Fund. The fund shall consist of monies transferred to it from the Gaming Revenue Fund established in section 59 of chapter 23K, all other monies credited or transferred to it from any other fund or source and proceeds from the investment of such funds. Subject to appropriation, the fund shall be distributed to cities and

towns as a supplement to other sources of local aid distributions, but shall not be subject to section 5C.

Section 2DDDD. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Gaming Economic Development Fund. The fund shall be credited with revenues transferred to it from the Gaming Revenue Fund established in section 59 of chapter 23K. Amounts credited to the fund shall be expended, subject to appropriation, to support economic development and job growth including, but not limited to: (1) workforce training, including transfers to the Workforce Competitiveness Trust Fund; (2) tourism promotion, including regional tourism promotion agencies and cultural and recreational attraction promotion; (3) summer jobs; (4) the Massachusetts Marketing Partnership; (5) higher education scholarships; (6) regional economic development initiatives; (7) support for small businesses, including small business lending; (8) green jobs promotion; (9) science, technology, engineering and mathematics career pipeline initiatives; and (10) agricultural development programs, including youth agricultural education.

Section 2EEEE. There shall be established and set up on the books of the commonwealth a Local Capital Projects Fund. The fund shall be credited with any monies transferred from licensing fees of gaming establishments or funds transferred from the Gaming Revenue Fund under chapter 23K and any monies credited to or transferred to the fund from any other fund or source.

SECTION 19. Section 38 of said chapter 29, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 115 and 116, the words “Fund, as established and defined in section thirty-five of chapter ten,” and inserting in place thereof the following words:- and Gaming Fund established in section 35 of chapter 10.

SECTION 20. Said section 38 of said chapter 29, as so appearing, is hereby further amended by striking out, in lines 127 and 128, the words “the said State Lottery” and inserting in place thereof the following words:- the State Lottery and Gaming.

SECTION 21. Section 1 of chapter 32 of the General Laws is hereby amended by inserting after the word “connector”, in line 211, as amended by section 47 of chapter 25 of the acts of 2009, the following words:- , the Massachusetts gaming commission,.

SECTION 22. Section 2 of chapter 32A of the General Laws is hereby amended by inserting after the word “authority”, in line 12, as appearing in the 2008 Official Edition, the following words:- , the Massachusetts gaming commission.

SECTION 23. Section 94 of chapter 41 of the General Laws, as so appearing, is hereby amended by inserting after the word “and”, in line 7, the first time it appears, the following word:- illegal.

SECTION 24. Section 7A of chapter 55 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(c) The aggregate of all contributions by a person who holds a license issued by the Massachusetts gaming commission, who was required to apply for that license under section 14 of chapter 23K, for the benefit of any 1 candidate and such candidate’s committee shall not exceed $200 in a calendar year. The aggregate of all contributions by a person who holds a license issued by the Massachusetts gaming commission, who was required to apply for that license under section 14 of chapter 23K, for the benefit of any other political committee, other than a ballot question committee, shall not exceed $200 in a calendar year.

SECTION 25. Section 18C of chapter 58 of the General Laws, as so appearing, is hereby amended by inserting after the word “Lottery”, in line 6, the following words:- and Gaming.

SECTION 26. Section 18D of said chapter 58 is hereby repealed.

SECTION 27. Section 5A of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 24, the following words:- , including gaming winnings acquired at or through a gaming establishment under chapter 23K.

SECTION 28. The seventh paragraph of section 2 of chapter 62B of the General Laws, as so appearing, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:- Every person, including the United States, the commonwealth or any other state, or any political subdivision or instrumentality of the foregoing, making any payment of lottery or wagering winnings, which are subject to tax under chapter 62 and which are subject to withholding under section 3402(q) of the Internal Revenue Code, without the exception for slot machines, keno and bingo played at licensed casinos in subsections (q)(5) and (r) of the Internal Revenue Code, shall deduct and withhold from such payment an amount equal to 5 per cent of such payment, except that such withholding for purposes of this chapter shall apply to payments of winnings of $600 or greater notwithstanding any contrary provision of the Internal Revenue Code. For the purposes of this chapter and chapter 62C, such payment of winnings shall be treated as if it were wages paid by an employer to an employee.

SECTION 29. Said chapter 62B is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. Every employer required to deduct and withhold from an employee or payee a tax under section 2 or who would have been required under said section 2 in the case of an employee to deduct and withhold a tax if the employee had not claimed any personal exemption or dependency exemptions, shall furnish to each such employee or payee in respect of the wages or

other payments paid by such employer to such employee or payee during the calendar year, on or before January 31 of the succeeding year, or, if an employee's employment is terminated before the close of such calendar year, within 30 days from the day on which the last payment of wages shall be made, a written statement in duplicate showing the name of the employer, the name of the employee or payee and the social security number of such employee or payee, if any, the total amount of wages or other amounts subject to taxation under chapter 62 and the total amount deducted and withheld as tax. The statement shall contain such other information as the commissioner may prescribe. The commissioner may grant reasonable extensions of time, not exceeding 60 days, for the furnishing of the statement.

An employer who fails to withhold or pay to the commissioner any sum required by this chapter to be withheld or paid shall be personally and individually liable therefor to the commonwealth. The term "employer," as used in this section and in section 11, shall include a person or entity required to withhold tax from a payee, an officer or employee of a corporation or a member or employee of a partnership or limited liability company who, as such officer, employee or member is under a duty to withhold and pay over taxes in accordance with this section and section 2. Any sum withheld in accordance with said section 2 shall be considered to be held in trust for the commonwealth.

If an employer in violation of this chapter fails to withhold the tax in accordance with section 2 and thereafter the tax against which such tax may be credited pursuant to section 9 is paid, the tax so required to be withheld shall not be collected from the employer; but this paragraph shall not relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to withhold.

SECTION 30. The first paragraph of section 8 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:-The same basis of reporting shall be utilized for income that is subject to taxation or withholding under chapter 62 or 62B but is not subject to taxation or withholding under the Code.

SECTION 31. The third paragraph of subsection (f) of section 38 of chapter 63 of the General Laws, as so appearing, is hereby amended by adding the following clause:- (8) in the case of a business deriving receipts from operating a gaming establishment or otherwise deriving receipts from conducting a wagering business or activity, income-producing activity shall be considered to be performed in this commonwealth to the extent that the location of wagering transactions or activities that generated the receipts is in this commonwealth.

SECTION 32. Said subsection (f) of said section 38 of said chapter 63, as so appearing, is hereby amended by inserting after the word "place", in line 200, the following clause:- (7) in the case of a business deriving receipts from operating a gaming establishment or otherwise deriving receipts from conducting a wagering business or activity, income-producing activity shall be considered to be performed in this commonwealth to the extent that the location of wagering transactions or activities that generated the receipts is in this commonwealth.

SECTION 33. Section 2 of chapter 70 of the General Laws, as so appearing, is hereby amended by inserting after the word "Lottery", in line 355, the following words:- and Gaming.

SECTION 34. Section 2 of chapter 128 of the General Laws, as so appearing, is hereby amended by striking out, in line 99, the words "or dog".

SECTION 35. Said section 2 of said chapter 128, as so appearing, is hereby further amended by striking out subsection (i).

SECTION 36. Said subsection 2 of said chapter 128, as so appearing, is hereby further amended by striking out, in lines 152 and 153, the words "the provisions of paragraphs (b), (f), (g), and (i)" and inserting in place thereof the following words:- subsections (b), (f) and (g).

SECTION 37. Section 1 of chapter 128A of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "state racing commission" and inserting in place thereof the following words:- Massachusetts gaming commission established in chapter 23K.

SECTION 38. Said **c**hapter 128A is hereby repealed.

SECTION 39. Section 1 of chapter 128C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 12, the words "state racing commission" and inserting in place thereof the following words:- Massachusetts gaming commission established in chapter 23K.

SECTION 40. Said chapter 128C of the General Laws is hereby repealed.

SECTION 41. Section 1 of chapter 137 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "gaming", in line 2, the following words:- , except for gaming conducted in licensed gaming establishments pursuant to chapter 23K.

SECTION 42. Section 2 of said chapter 137, as so appearing, is hereby amended by striking out, in line 2, the word "where" and inserting in place thereof the following words:- , but not including an owner or operator of a licensed gaming establishment pursuant to chapter 23K, where.

SECTION 43. Section 3 of said chapter 137, as so appearing, is hereby amended by inserting after the word “betting,”, in line 5, the following words:- ,but not including gaming conducted pursuant to chapter 23K.

SECTION 44. Section 18 of chapter 139 of the General Laws, as so appearing, is hereby amended by inserting after the word “of”, in line 6, the word:- illegal.

SECTION 45. Section 177A of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word “machines”, in line 12, the following words:- , but not including slot machines as defined in chapter 23K.

SECTION 46. Section 26A of chapter 180 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 16, each time it appears, the words “or dog”.

SECTION 47. The General Laws are hereby amended by inserting after chapter 267 the following chapter:-

Chapter 267A

Money Laundering.

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise have the following meanings:

“Criminal activity”, activity which constitutes a criminal offense punishable under the laws of the commonwealth by imprisonment in a state prison or a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction as a felony.

“Financial institution”, (1) a bank as defined in section 1 of chapter 167; (2) a national banking association, bank, savings and loan, savings bank, cooperative bank, building and loan or credit union organized under the laws of the United States; (3) a banking association, bank,

savings and loan, savings bank, cooperative bank, building and loan or credit union organized under the laws of any state; (4) an agency, agent or branch of a foreign bank; (5) a currency dealer or exchange; (6) a person or business engaged primarily in the cashing of checks; (7) a person or business regularly engaged in the issuing, selling or redeeming of traveler's checks, money orders or similar instruments; (8) a broker or dealer in securities or commodities; (9) a licensed transmitter of funds or other person or business regularly engaged in the transmission of funds to a foreign nation for others; (10) an investment banker or investment company; (11) an insurer; (12) a dealer in precious metals, stones or jewels; (13) a pawnbroker or scrap metal dealer; (14) a telegraph or other communications company; (15) a personal property or real estate broker; (16) a dealer in vehicles including, but not limited to, automobiles, aircraft and vessels; (17) an operator of a betting or gaming establishment; (18) a travel agent; (19) a thrift institution, as defined by section 1 of chapter 167F; (20) an operator of a credit card system; or (21) a loan or finance company.

"Monetary instrument", the currency and coin of the United States or any foreign country; any bank check, money order, stock, investment security, or negotiable instrument in bearer form or otherwise in such form that title passes upon delivery; gold, silver or platinum bullion or coins; diamonds, emeralds, rubies or sapphires; any negotiable instrument including: bank checks, cashier's checks, traveler's checks, or monetary orders made payable to the order of a named party that have not been endorsed or which bear restrictive endorsements; poker chips, vouchers or other tokens exchangeable for cash by gaming entities; and credit cards, debit cards, gift cards, gift certificates or scrips.

"Transaction", a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition and, with respect to a financial institution, including, but not limited to, a deposit, withdrawal,

bailment, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit or other monetary instrument, use of a safe deposit box or any other payment, transfer or delivery by, through, or to a financial institution, by whatever means effected.

Section 2. Whoever knowingly:

(1) transports or possesses a monetary instrument or other property that was derived from criminal activity with the intent to promote, carry on or facilitate criminal activity;

(2) engages in a transaction involving a monetary instrument or other property known to be derived from criminal activity:

(i) with the intent to promote, carry on or facilitate criminal activity; or

(ii) knowing that the transaction is designed in whole or in part either to: (A) conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity; or (B) avoid a transaction reporting requirement of this chapter, of the United States, or of any other state; or

(3) directs, organizes, finances, plans, manages, supervises or controls the transportation of, or transactions in, monetary instruments or other property known to be derived from criminal activity or which a reasonable person would believe to be derived from criminal activity shall be guilty of the crime of money laundering and shall be punished by imprisonment in the state prison for not more than 6 years or by a fine of not more than $250,000 or twice the value of the property transacted, whichever is greater, or by both such imprisonment and fine. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state

prison for not less than 2 years, but not more than 8 years or by a fine of not more than $500,000 or 3 times the value of the property transacted, whichever is greater, or by both such imprisonment and fine.

Section 3. (a) A financial institution shall file with the attorney general a copy of any and all reports required by the Currency and Foreign Transactions Act, set forth in 31 U.S.C., sections 5311 through 5315, 31 C.F.R. 103.

(b) A financial institution, or any officer, employee, or agent of a financial institution that maintains and files a record or report under this section shall not be liable to its customer, to a state or local agency, or to any person for any loss or damage caused in whole or in part by the making, filing or governmental use of the record or report, or any information contained in the record or report. Nothing in this chapter shall be construed to give rise to a private cause of action for relief or damages. This subsection shall not preclude a financial institution, in its discretion, from instituting contact with, and then communicating with and disclosing customer financial records to appropriate federal, state or local law enforcement agencies if the financial institution has reason to suspect that the records or information demonstrate that the customer has violated this chapter.

(c) Any report, record or information obtained by the attorney general under this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66 and shall not be subject to disclosure, except to other state and federal law enforcement agencies.

(d) Any violation of this section shall be punished by a fine of $100 for each report not filed.

(e) The timely filing of complete and accurate reports required under subsection (a) with the appropriate federal agency shall constitute compliance with the requirements of subsection (a).

Section 4. All monetary instruments or other property, real, intellectual or personal, obtained directly as a result of a violation of section 2, shall be subject to forfeiture to the commonwealth. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j), inclusive, of section 47 of chapter 94C. For the purposes of subsection (d) of said section 47 of said chapter 94C, the investigations and enforcement bureau of the Massachusetts gaming commission established in chapter 23K shall be considered a police department and shall be entitled to a police department's distribution of forfeiture proceedings.

SECTION 48. Section 6 of chapter 268B of the General Laws, as appearing in section 95 of chapter 28 of the acts of 2009, is hereby amended by adding the following paragraph:-

For the purposes of this section, a person who holds a license issued by the Massachusetts gaming commission, who was required to apply for that license pursuant to section 14 of chapter 23K, shall be considered a legislative agent.

SECTION 49. Section 1 of chapter 271 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "gaming", in lines 3 and 4, the following words:- , except as permitted under chapter 23K.

SECTION 50. Section 2 of said chapter 271, as so appearing, is hereby amended by striking out the words "in any", in line 14, and inserting in place thereof the following words:- , except as permitted under chapter 23K, in any.

SECTION 51. Section 3 of said chapter 271, as so appearing, is hereby amended by striking out, in line 1, the word “Every” and inserting in place thereof the following words:- Except as permitted under chapter 23K, every.

SECTION 52. Section 5 of said chapter 271, as so appearing, is hereby amended by striking out, in line 1, the word “keeps”, and inserting in place thereof the following words:- , except as permitted under chapter 23K, keeps.

SECTION 53. The second paragraph of section 5A of said chapter 271, as so appearing, is hereby amended by adding the following paragraph:-

This section shall not apply to persons who manufacture, transport, sell, offer for sale, store, display, repair, recondition, possess or use any gambling device or parts for use in such a device for licensed gaming conducted under chapter 23K.

SECTION 54. Section 6 of said chapter 271, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “gambling or unlawful game” and inserting in place thereof the words:- illegal gaming.

SECTION 55. Section 7 of said chapter 271, as so appearing, is hereby amended by inserting after the word “device”, in line 7, the first time it appears, the following words:- that is not taking place in a gaming establishment licensed pursuant to chapter 23K.

SECTION 56. Said chapter 271 is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:

Section 8. Whoever owns, occupies or is in control of a house, shop or building and knowingly permits the establishing, managing or drawing of a lottery, or the disposal or attempt to dispose of property, or the sale of a lottery ticket or share of a ticket, or any other writing, certificate, bill,

token or other device purporting or intended to entitle the holder, bearer or any other person to a prize or to a share of or interest in a prize to be drawn in a lottery, or in the disposal of property, and whoever knowingly allows money or other property to be raffled for or won by throwing or using dice or by any other game of chance that is not being conducted in a gaming establishment licensed under chapter 23K, shall be punished by a fine of not more than $2,000 or by imprisonment in the house of correction for not more than 1 year.

SECTION 57. Section 14 of said chapter 271, as so appearing, is hereby amended by inserting after the word "by", in line 3, the first time it appears, the following words:- illegal gaming, including games of.

SECTION 58. Section 16A of said chapter 271, as so appearing, is hereby amended by inserting after the word "wagerers", in line 14, the following words:- or persons who organize, supervise, manage or finance persons for the purpose of legal gaming conducted under chapter 23K.

SECTION 59. Section 17 of said chapter 271, as so appearing, is hereby amended by adding the following sentence: - This section shall not apply to a person who organizes, supervises, manages or finances another person for the purpose of gaming conducted in accordance with chapter 23K.

SECTION 60. Section 19 of said chapter 271, as so appearing, is hereby amended by inserting after the word "hazard", in line 16, the following sentence:- This section shall not apply to advertising of gaming conducted pursuant to chapter 23K.

SECTION 61. Section 20 of said chapter 271, as so appearing, is hereby amended by adding the following sentence:- Nothing in this section shall prohibit a gaming establishment licensed under chapter 23K from posting, advertising or displaying materials relevant to its gaming operations.

SECTION 62. Section 22 of said chapter 271, as so appearing, is hereby amended by inserting after the word " of", in line 6, the third time it appears, the following word:- illegal.

SECTION 63. Section 23 of said chapter 271, as so appearing, is hereby amended by inserting after the word "for", in line 28, the following words:-; provided, however, that such provisions shall not apply to gaming conducted pursuant chapter 23K.

SECTION 64. Section 28 of said chapter 271, as so appearing, is hereby amended by inserting after the word "of", in line 3, the third time it appears, the following word:- illegal.

SECTION 65. Section 31 of said chapter 271, as so appearing, is hereby amended by inserting after the word "both", in line 8, the following sentence: - This section shall not apply to racing conducted pursuant to chapter 23K.

SECTION 66. The General Laws are hereby amended by inserting after chapter 271 the following chapter:-

Chapter 271A

Enterprise Crime.

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Criminal enterprise activity", the commission, attempt to commit or conspiracy to commit or the solicitation, coercion, aiding, abetting or intimidation of another to commit any of the following criminal activity under the laws of the commonwealth or equivalent crimes under the laws of any other jurisdiction: a violation of any criminal provision of chapter 23K; a felony offense under chapter 271; distributing, dispensing, manufacturing, or possession with intent to

distribute, dispense or manufacture a controlled substance in violation of chapter 94C; murder; rape; manslaughter, not including motor vehicle homicide; assault; assault and battery; assault and battery in order to collect a loan; assault with intent to rob or murder; poisoning; mayhem; robbery; extortion; stalking; criminal harassment; kidnapping; arson; burglary; malicious destruction of property; commission of a felony for hire; breaking and entering; child exploitation; assault and battery on a child; rape of a child; rape and abuse of a child; enticement of a child under 16; human trafficking; violation of constitutional rights under section 37 of chapter 265; usury; uttering; misuse or fraudulent use of credit cards under section 37C of chapter 266; identity fraud; misappropriation of funds; gross fraud under section 76 of chapter 276; insurance fraud; unlawful prize fighting or boxing matches; counterfeiting; perjury; subornation of perjury; obstruction of justice; money laundering; witness intimidation; bribery; electronic eavesdropping; prostitution under sections 2, 3, 4A, 4B, 6, 7, 12 and 13 of chapter 272; receiving stolen property; larceny over $250; larceny by false pretenses or embezzlement; forgery; procurement fraud; false claims; tax evasion; filing false tax returns; or any conduct defined as a racketeering activity under Title 18, U.S.C. s. 1961(1)(A)(B) and (D).

“Enterprise”, an entity including any individual, sole proprietorship, partnership, corporation, association, trust or other legal entity and any unchartered union or group of persons associated in fact although not a legally recognized entity.

“Gaming establishment”, an establishment licensed under chapter 23K.

“Pattern of criminal enterprise activity”, engaging in at least 3 incidents of criminal enterprise activity that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated

incidents; provided, however, that at least 1 of the incidents occurred after the effective date of this chapter, and the last incident occurred within 5 years of another incident of criminal enterprise activity.

“Unlawful debt”, a debt: (i) which was incurred or contracted in an illegal gambling activity or business; or (ii) which is unenforceable under state or federal law, in whole or in part, as to principal or interest under the law relating to usury.

Section 2. Whoever knowingly: (1) through a pattern of criminal enterprise activity or through the collection of an unlawful debt acquires or maintains, directly or indirectly, an interest in or control of an enterprise which is engaged in, or the activities of which affect, licensed gaming under chapter 23K or ancillary industries which do business with a gaming establishment; (2) having received proceeds derived, directly or indirectly, from a pattern of criminal enterprise activity or through the collection of an unlawful debt, uses or invests, directly or indirectly, part of the proceeds including proceeds derived from the investment, in the acquisition of an interest in real property to be used in connection with licensed gaming, or in the establishment or operation of, an enterprise which is engaged in, or the activities of which affect, licensed gaming operations or ancillary industries which do business with a gaming establishment; (3) is employed by or associated with an enterprise to conduct or participate, directly or indirectly, in the conduct of the enterprise's affairs or activities which affect licensed gaming operations or ancillary industries which do business with a gaming establishment by engaging in a pattern of criminal enterprise activity or through the collection of an unlawful debt; or (4) conspires or attempts to violate subsections (1), (2), or (3) of this section or attempts to so conspire; shall be

guilty of enterprise crime and shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $25,000, or by both such imprisonment and fine.

Nothing in this chapter shall prohibit the purchase of securities on the open market for purposes of investment made without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, if the securities of the issuer held by the: (i) purchaser; (ii) members of the purchaser's immediate family; or (iii) the purchaser's accomplices in any pattern of criminal activity for the collection of an unlawful debt after such purchase do not amount, in the aggregate, to 1 per cent of the outstanding securities of any 1 class and do not confer, either in law or in fact, the power to elect 1 or more directors of the issuer.

Section 3. All monetary proceeds or other property, real, intellectual or personal, obtained directly as a result of a violation of this chapter, shall be subject to seizure and forfeiture to the commonwealth. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j), inclusive of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of said chapter 94C, the investigation and enforcement bureau of the Massachusetts gaming commission established under chapter 23K shall be considered a police department, entitled to a police department's distribution of forfeiture proceedings.

SECTION 67. Section 39 of chapter 272 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "in", in line 7, the following word:- illegal.

SECTION 68. The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby amended by striking out the words "and until January 31, 2012", inserted by section 1 of chapter

77 of the acts of 2011, and inserting in place thereof the following words:- and until July 31, 2014.

SECTION 69. The last paragraph of said section 12A of said chapter 494 is hereby amended by striking out the words “January 31, 2012”, inserted by section 2 of said chapter 77, and inserting in place thereof the following words:- July 31, 2014.

SECTION 70. The introductory paragraph of section 13 of said chapter 494 is hereby amended by striking out the words “and until January 31, 2012”, inserted by section 3 of said chapter 77, and inserting in place thereof the following words:- and until July 31, 2014.

SECTION 71. Said section 13 of said chapter 494 is hereby further amended by striking out clause (c), as appearing in section 2 of chapter 114 of the acts of 1991.

SECTION 72. Clause (d) of said section 13 of said chapter 494, as so appearing, is hereby amended by striking out, in line 21, the words “, (b) or (c)” and inserting in place thereof the following words:- or (b).

SECTION 73. Said section 13 of said chapter 494 is hereby further amended by striking out subsection (f), as so appearing.

SECTION 74. Section 15 of said chapter 494 is hereby amended by striking out the words “and until January 31, 2012”, inserted by section 4 of said chapter 77, and inserting in place thereof the following words:- and until July 31, 2014.

SECTION 75. The first paragraph of section 9 of chapter 277 of the acts of 1986 is hereby amended by striking out the words “and until January 31, 2012”, inserted by section 5 of said chapter 77, and inserting in place thereof the following words:- and until July 31, 2014.

SECTION 76. The first sentence of the first paragraph of section 3 of chapter 114 of the acts of

1991 is hereby amended by striking out the words “and until January 31, 2012”, inserted by section 6 of said chapter 77, and inserting in place thereof the following words:- and until July 31, 2014.

SECTION 77. The last paragraph of said section 3 of said chapter 114 is hereby amended by striking out the words “January 31, 2012”, inserted by section 7 of said chapter 77, and inserting in place thereof the following words:- July 31, 2014.

SECTION 78. The first paragraph of section 4 of said chapter 114 is hereby amended by striking out the words “and until January 31, 2012”, inserted by section 8 of said chapter 77, and inserting in place thereof the following words:- and until July 31, 2014.

SECTION 79. The last paragraph of said section 4 of said chapter 114 is hereby amended by striking out the words “January 31, 2012”, inserted by section 9 of said chapter 77, and inserting in place thereof the following words:- July 31, 2014.

SECTION 80. The first paragraph of section 5 of said chapter 114 is hereby amended by striking out the words “and until January 31, 2012”, inserted by section 10 of said chapter 77, and inserting in place thereof the following words:- and until July 31, 2014.

SECTION 81. Section 13 of chapter 101 of the acts of 1992 is hereby repealed.

SECTION 82. Section 45 of chapter 139 of the acts of 2001 is hereby amended by striking out the words “January 31, 2012”, inserted by section 12 of said chapter 77, and inserting in place thereof the following words:- July 31, 2014.

SECTION 83. Section 20 of chapter 449 of the acts of 2006 is hereby amended by striking out the words “January 31, 2012”, inserted by section 13 of said chapter 77, and inserting in place thereof the following words:- July 31, 2014.

SECTION 84. (a) Notwithstanding section 5 of chapter 128A of the General Laws or any other general or special law or rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall not be eligible for purse assistance pursuant to clause (6) of subsection (h) of said section 5.

(b) Notwithstanding chapters 128A and l28C of the General Laws or any other general or special law or rule or regulation to the contrary, amounts from unclaimed winnings and breaks generated by the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall be dedicated to the Racing Stabilization Fund established in subsection (a) of section 85.

(c) Notwithstanding section 14 of chapter 77 of the acts of 2011 or any other general or special law, rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall, unless otherwise provided in this act, be subject to chapter 128A and 128C of the General Laws and chapter 139 of the acts of 2001.

SECTION 85. (a) Notwithstanding any general or special law or rule or regulation to the contrary, there shall be a Racing Stabilization Fund that shall be administered by the Massachusetts Gaming Commission, hereinafter known as the commission, established pursuant to chapter 23K of the General Laws. The fund shall consist of all revenues dedicated pursuant to this act. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund; provided, however, that the commission shall distribute to owners and lessees of greyhound dogs who have raced in calendar year 2009 for the humane care, maintenance and adoption of those greyhound dogs, a sum equal to 1 per cent of the total amount wagered at each

racing meeting licensee within the commonwealth acting as a guest track and simulcasting a live greyhound race from a host track from outside the commonwealth provided, however, that before any such amount is distributed, the commission shall develop a method and criteria by which to distribute such funds in an equitable manner among dog owners. The commission shall distribute to kennel owners who housed greyhound dogs who have raced in calendar year 2009 for the humane care, maintenance and adoption of those greyhound dogs, a sum equal to 1.5 per cent of the total amount wagered at each racing meeting licensee within the commonwealth acting as a guest track and simulcasting a live greyhound race from a host track from outside commonwealth; provided, however, that before any amount is distributed, the commission shall develop a method and criteria by which to distribute such funds in an equitable manner among kennel owners; and provided further, the commission shall begin payments to kennel owners in April 2012. Such payments shall be paid on a biweekly basis beginning on April 12, 2012.

(b) Notwithstanding section 12A of chapter 494 of the acts of 1978 or any other general or special law or rule or regulation to the contrary, after July 31, 2011, the comptroller shall transfer all monies deposited in the Greyhound Capital Improvements Trust Fund and the Greyhound Promotional Trust Fund, each established under said section 12A of said chapter 494, to the Racing Stabilization Fund established in subsection (a). After July 31, 2011, the comptroller shall transfer any revenues deposited into the Greyhound Capital Improvements Trust Fund and the Greyhound Promotional Trust Fund into the Racing Stabilization Fund within 10 days after receipt of those revenues.

(c) Notwithstanding any general or special law to the contrary, the greyhound meeting licensee

located in Bristol county and the greyhound meeting licensee located in Suffolk county shall report monthly to Massachusetts gaming commission established under chapter 23K of the General Laws on their net and gross revenue, including an itemization of premiums received, fees received and any amounts dedicated to purse accounts, the Greyhound Capital Improvements Trust Fund and the Greyhound Promotional Trust Fund. The report shall include the number of part-time and full-time staff employed by the licensees at the close of the previous month. The report shall also include the total amount of premiums paid to the harness horse meeting licensees located in Norfolk county and the running horse meeting licensee located in Suffolk county. Failure to file the report on the tenth day of each month shall be cause for suspension of the greyhound meeting license. The commission shall forward all such reports to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on labor and workforce development. The greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall also prepare a report of all funds received and disbursed for calendar years 2010 and 2011. The report shall also be filed with the commission not later than January 31, 2012, and the commission shall forward the reports to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on labor and workforce development.

(d) Notwithstanding any general or special law, rule or regulation to the contrary, monies in the Racing Stabilization Fund established in subsection (a) may be used to assist efforts to secure alternative employment and retraining opportunities for displaced workers impacted by the enactment of chapter 388 of the acts of 2008 including, but not limited to, coordinating the

delivery of available state and federal resources and services; provided, however, that such funds from the fund shall only be expended after all federal funds from the Workforce Investment Act and the American Reinvestment and Recovery Act have been exhausted; provided further, that state funds shall be distributed in accordance with subsection (a).

(e) Notwithstanding any general or special law to the contrary, upon the effective date of this act, the comptroller shall transfer all monies from the Racing Stabilization Fund established pursuant to chapter 167 of the acts of 2009, as amended by section 14 of chapter 86 of the acts of 2010, to the Racing Stabilization Fund established herein.

SECTION 86. Notwithstanding any general or special law to the contrary, in making initial appointments to the Massachusetts gaming commission established in chapter 23K of the General Laws, of the members to be appointed by majority agreement of the governor, the attorney general and the treasurer and receiver general, 1 commissioner shall be appointed for a term of 3 years and 1 shall be appointed for a term of 4 years. The commissioner to be appointed by the treasurer and receiver general shall serve for a term of 5 years, the commissioner to be appointed by the attorney general shall serve for a term of 6 years and the commissioner appointed by the governor shall serve for a term of 7 years.

SECTION 87. The chair of the Massachusetts gaming commission shall consider current employees of the state racing commission as eligible for employment with the commission and shall, subject to all other requirements and conditions of employment under chapter 23K of the General Laws, give preference to such individuals when making such employment decisions.

SECTION 88. A gaming licensee awarded a gaming license under chapter 23K of the General Laws shall show preference in hiring to qualified persons permanently employed as of June 1,

2010 at a facility authorized to conduct simulcasting under chapter 128C of the General Laws that was in operation on June 1, 2010 within the region for which the gaming license was granted if that facility terminates operation within 1 year of the Massachusetts gaming commission awarding the gaming license, subject to all other requirements and conditions of employment under said chapter 23K; provided, however, that a facility authorized to conduct simulcasting shall provide employment data on the number, names and addresses of employees in permanent employment with that facility as of June 1, 2010 to the commission to assist the gaming licensee in meeting this obligation.

SECTION 89. (a) Notwithstanding any general or special law or rule or regulation to the contrary, the governor may enter into a compact with a federally recognized Indian tribe in the commonwealth.

(b) The Massachusetts gaming commission shall, upon request of the governor, provide assistance to the governor in negotiating such compact.

(c) The governor shall only enter into negotiations under this section with a tribe that has purchased, or entered into an agreement to purchase, a parcel of land for the proposed tribal gaming development and scheduled a vote in the host communities for approval of the proposed tribal gaming development.

(d) A compact negotiated and agreed to by the governor and tribe shall be submitted to the general court for approval.

(e) Notwithstanding any general or special law or rule or regulation to the contrary, if a mutually agreed-upon compact has not been negotiated by the governor and Indian tribe or if such compact has not been approved by the general court before July 31, 2012, the commission shall issue a request for applications for a category 1 license in Region C pursuant to chapter 23K of

the General Laws not later than October 31, 2012; provided, however, that if, at any time on or after August 1, 2012 the commission determines that the tribe will not be granted land-in-trust by the Bureau of Indian Affairs at the United States Department of the Interior, the commission shall consider bids for a category 1 license in Region C under said chapter 23K.

SECTION 90. Notwithstanding section 2 of chapter 128A of the General Laws and sections 1, 2 and 2A of chapter 128C of the General Laws or any other general or special law, rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county licensed to conduct live racing pursuant to said chapter 128A and simulcast wagering pursuant to said chapter 128C in calendar year 2011, shall remain licensed as greyhound racing meeting licensees until July 31, 2014; provided, however, that the days between January 1 and July 31 of each year shall be dark days pursuant to said chapter 128C and the licensees shall continue to be precluded from conducting live racing during that period and as provided in chapter 388 of the acts of 2008; provided further, that all simulcasts shall comply with the Interstate Horse Racing Act of 1978, 15 U.S.C. Sec. 3001 et seq. or other applicable federal law; provided further, that all simulcasts from states which have racing associations that do not require approval in compliance with the Interstate Horse Racing Act of 1978, 15 U.S.C. Sec. 3004 (a) (1) (A), except simulcasts during the month of August, shall require the approval of the New England Horsemen's Benevolent and Protective Association prior to being simulcast to a racing meeting licensee within the commonwealth; and provided further, that if the association agrees to approve the simulcast for 1 racing meeting licensee, it shall approve the simulcast for all otherwise eligible racing meeting licensees.

SECTION 91. (a) There shall be established and set up on the books of the commonwealth a Gaming Licensing Fund which shall receive all licensing fees collected from applicants in

receipt of a category 1 or category 2 license under chapter 23K of the General Laws. The fund shall expire on December 31, 2015. The commission shall be the trustee of the fund and shall transfer monies in the fund as follows:**;**

(1) 10 per cent to the Community Mitigation Fund established in section 61 of chapter 23K of the General Laws.

(2) 14.5 per cent to the Transportation Infrastructure and Development Fund established in section 62 of chapter 23K of the General Laws.

(3) 11 per cent to the Local Capital Projects Fund established in section 2EEEE of chapter 29 of the General Laws.

(4) 15.5 per cent to the Manufacturing Fund established in section 96.

(5) 19.5 per cent to the Community College Fund established in section 97.

(6) 1.5 per cent to the Tourism Fund established in section 35J of chapter 10 of the General Laws.

(7) 23 per cent to the Healthcare Payment Reform Fund established in section 99.

(8) 5 per cent shall be remitted to the comptroller for deposit into the Local Aid Stabilization Fund, established in section 2CCCC of chapter 29 of the General Laws;

(b) Upon receipt by the Massachusetts gaming commission of license fees from licensees, interim transfers and payments shall be made on a pro rata basis from the Gaming Licensing Fund as provided in clauses (1) and (2) of subsection (a); provided, however, that no transfer or payment under said clauses (1) and (2) of said subsection (a) shall occur until the fund

reimburses $20,000,000 to the Commonwealth Stabilization Fund as required by subsection (c) of section 92 of this act.

SECTION 92. (a) Within 30 days after the effective date of this act, the comptroller shall transfer $15,000,000 from the Commonwealth Stabilization Fund established in section 2H of chapter 29 of the General Laws to the Massachusetts gaming commission for the start-up and operational costs of implementing chapter 23K of the General Laws.

(b) Within 10 days after the effective date of this act, the comptroller shall transfer $5,000,000, from the Commonwealth Stabilization Fund established in section 2H of chapter 29 of the General Laws to the General Fund.

(c) Upon receipt by the Massachusetts gaming commission of sufficient license fees from licensees under chapter 23K of the General Laws, the commission shall transfer $20,000,000 to the Commonwealth Stabilization Fund established in section 2H of chapter 29 of the General Laws.

SECTION 93. Notwithstanding any general or special law to the contrary, in the second fiscal year in which a deposit is made into the Gaming Local Aid Fund under clause (e) of paragraph (2) of section 59 of chapter 23K the General Laws, the commission shall transfer from the Gaming Local Aid Fund into the Local Aid Stabilization Fund an amount equal to 3.125 per cent of the gross gaming revenue received from a category 1 establishment. In the third fiscal year in which a deposit is made into the Gaming Local Aid Fund under said clause (e) of said paragraph (2) of said section 59 of said chapter 23K, the commission shall transfer from the Gaming Local Aid Fund into the Local Aid Stabilization Fund an amount equal to 6.25 per cent of the gross gaming revenue received from a category 1 establishment. In the fourth fiscal year in which a

deposit is made into the Gaming Local Aid Fund under said clause (e) of said paragraph (2) of said section 59 of said chapter 23K, the commissioner shall transfer from Gaming Local Aid Fund into the Local Aid Stabilization Fund an amount equal to 9.375 per cent of the gross gaming revenue received from a category 1 establishment. In the fifth fiscal year in which a deposit is made into the Gaming Local Aid Fund under said clause (e) of said paragraph (2) of said section 59 of said chapter 23K and in all subsequent fiscal years, the commission shall transfer from the Gaming Local Aid Fund into the Local Aid Stabilization Fund an amount equal to 12.5 per cent of the gross gaming revenue received from a category 1 establishment.

SECTION 94. The governing body of a host community which has accepted chapter 43D of the General Laws shall file a proposal with the interagency permitting board to designate the site proposed for a category 1 establishment as a priority development site. In a community which has not accepted said chapter 43D, the planning board shall designate a local permitting ombudsman, who shall be a planning board member of the host community or a member of the host community planning board's professional staff, to help coordinate and expedite local permitting of the category 1 establishment.

SECTION 95. Notwithstanding any general or special law or rule or regulation to the contrary, a gaming establishment shall supply the Massachusetts gaming commission, hereinafter the commission, with customer tracking data collected or generated by loyalty programs, player tracking software, player card systems, online gambling transactions or any other information system. The commission shall contract with an experienced nonprofit research entity to develop an anonymizing system that automatically removes from the data: (a) personally identifying information, including player name, street address, bank or credit information and the last 4 digits of a player's zip code, in compliance with section 2 of chapter 93H of the General Laws;

and (b) game identifying information, including game name and device manufacturing company, in protection of corporate intellectual property. The data shall retain information on player characteristics including, but not limited to, gender, age and region of residence, player behavior including, but not limited to, frequency of play, length of play, speed of play, denomination of play, amounts wagered and, if applicable, number of lines or hands played and characteristics of games played including, but not limited to, reel configuration, return-to-player or RTP, volatility index and denomination. The commission shall convey the anonymized data to a research facility which shall make the data available to qualified researchers for the purposes of: (1) conducting analyses that improve understanding of how gambling addiction develops and progresses; (2) developing evidence-based harm minimization strategies; and (3) developing evidence-based systems to monitor, detect and intervene in high-risk gambling. The commission shall request reports on researcher analyses of the behavioral data, which could provided informed recommendation to the general court relative to more effective regulation of gambling operations. The commission may directly initiate studies assessing the effectiveness of any specific measures, programs or interventions which the commonwealth has implemented in gaming operations and which might be illuminated through the behavioral data in question.

SECTION 96. There shall be established and set up on the books of the commonwealth a Manufacturing Fund. The fund shall be credited with any monies transferred under section 91 and any monies credited or transferred to the fund from any other fund or source.

SECTION 97. There shall be established and set up on the books of the commonwealth a Community College Fund. The fund shall be credited with any monies transferred under section 91 and any monies credited or transferred to the fund from any other fund or source.

SECTION 98. There shall be established and set up on the books of the commonwealth a Healthcare Payment Reform Fund. The fund shall be credited with any monies transferred under section 91 and any monies credited or transferred to the fund from any other fund or source.

SECTION 99. Pursuant to section 2 of chapter 1194, 64 Stat. 1134, 15 U.S.C. 1171-1177, entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce", approved January 2, 1951, the commonwealth, acting by and through its duly elected and qualified members of the general court, hereby declares and proclaims that it shall be exempt from the provisions of chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. 117 -1178 for any gambling device authorized for use and transport under chapter 23K of the General Laws and any regulations promulgated thereunder.

SECTION 100. Notwithstanding any general or special law to the contrary, all shipments of gambling devices into the commonwealth, including slot machines, the registering, recording and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with sections 3 and 4 of "An act to prohibit transportation of gambling devices in interstate and foreign commerce,", 15 USC §§ 1171-1177, shall be deemed legal shipments thereof into the commonwealth.

SECTION 101. Notwithstanding any general or special law to the contrary, the Massachusetts gaming commission shall analyze the laws relating to charitable gaming, raffles and bazaars in effect on the effective date of this act, including section 7A of chapter 271. The analysis shall include a review of the efficacy of those laws and the need to update, redraft or repeal said laws. The commission shall report its findings and recommendations, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the

clerks of the senate and house of representatives and with the house and senate chairs of the joint committee on economic development and emerging technologies not later than April 1, 2012.

SECTION 102. Notwithstanding any general or special law to the contrary, the Massachusetts gaming commission, established by chapter 23K of the General Laws, shall analyze the pari-mutuel and simulcasting laws in effect on the effective date of this act. The analysis shall include a review of the efficacy of those laws and the need to replace those laws pursuant to the continuation of chapters 128A and 128C of the General Laws in this act. The analysis shall not address whether to increase the number of running horse, harness horse or greyhound racing meeting licensees in the commonwealth. The commission shall report its findings and recommendations, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the clerks of the senate and house of representatives and with the house and senate chairs of the joint committee on economic development and emerging technologies not later than January 1, 2013.

SECTION 103. The first report required under section 71 of chapter 23K shall be submitted not later than 2 years after the effective date of this act.

SECTION 104. Clause 41 of section 4 of chapter 23K shall take effect on July 31, 2012.

SECTION 105. Section 17 shall take effect on July 31, 2014.

SECTION 106. Section 31 shall be effective for tax years beginning January 1, 2012.

SECTION 107. Section 32 shall take effect on December 31, 2018.

SECTION 108. Sections 38 and 40 shall take effect on July 31, 2014.

SECTION 109. Subsection (a) of Section 85 shall take effect April 1, 2012.